




MEMORANDUM

TO: Planning Commission Members

FROM: Steven Ball, Planning Director, AICP, LEED AP 

DATE: August 17, 2010

SUBJECT: Priority Preservation Areas (PPA) Element of the Comprehensive Plan - Process Summary and 5 Policy Options for Consideration

At your meeting on August 23rd, the staff and our consultant, Clive Graham of Environmental Resource Management, will present a briefing on this proposed plan element. House Bill 2, adopted by the Maryland Legislature, requires all counties that desire to retain an Agricultural Certification through the Maryland Agricultural Land Preservation Foundation (MALPF) to include this element as a part of their Comprehensive plan. Certification qualifies the county to receive 75% of agricultural transfer tax revenues per year. Without certification, this revenue would be reduced to 33% and other grant revenues could be in jeopardy (See attached fiscal impact statement).

As you will see in the briefing materials, the goal of the legislation is to establish Priority Preservation Areas (PPA's) based on the remaining, and yet to be developed lands, and their potential to be managed for productive farm and forest uses. It requires Counties to implement policies and programs to preserve 80% of these areas into the future. Our PPA boundaries were designed, in part, based on previous planning studies in the County's Land Preservation Parks and Recreation Plan (LPPRP) adopted in 2006 as well as additional data and analysis.

The Comprehensive Plan Amendment to adopt the new element requires acceptance by the Maryland Department of Planning (MDP) and formal approval by the MALPF Board in order to keep certification. They will examine the plan amendment to determine if it can meet the goals set by the State. The MDP and MALPF has indicated in previous correspondence (copies attached) that the zoning in rural Charles County (1 unit per 3 acres) does not effectively stabilize the land base in order to achieve the goal. They have indicated that we need to down-zone the rural lands to 1 unit per 20 or 25 acres to be able to stabilize the land base in order to meet the long range goal of the legislation. In addition, they also indicate we need to improve our Transfer of Development Rights (TDR) program to create a greater demand for these TDR rights to be transferred from agricultural lands to the development district.

In addition, time is limited in order to complete the plan amendment adoption process. The original deadline for completion was June 31st, and the County has requested an extension until December 1st which was approved by MALPF. Additional extensions are not available. The delay for completion is due to a variety of factors. The direction to proceed through the legislative process within the deadline of December 1st was directed to staff by the County Commissioners in late June. Staff has therefore

developed a schedule to complete this task with the intent of final adoption by December 1st (copy attached)

The following is a list of 5 policy options for you to consider for adoption and implementation of the plan element. We will also present these to the public during 3 public outreach meetings prior to your public hearing which is scheduled for October 4th. The preferred option will need to be included in the final document for adoption. (See attached table for summary of options)

OPTION #1: ZONING OPTION (Similar to Calvert County)

A. Summary:

- Rezone Priority Preservation Area lands from 1 unit per 3 acres, to 1 unit per 20 acres
- Retain 1 unit per 3 acres only as a development right to be used only as TDR's
- Lower base densities in Development District to create greater market for TDR's
- Require TDR's for increases above base density in development district
- Allow intra-family subdivisions at 1 unit per 3 acres in rural lands
- Utilize a Conservation Land Trust to serve as catalyst to buy and sell TDR's
- Certification is possible only if implemented soon, rezoning to occur within 6 months

B. Discussion:

Option 1 is currently in the draft element document that is provided to the Planning Commission and was also presented to Commissioners on June 22nd. Agricultural certification is most likely to be approved with this policy option. This option includes a policy to create and fund a Preservation Land Trust and requires down zoning which was recommended in the Charles County Rural Commission Report. It is similar to the Calvert County's Program. It is staff's opinion that the down zoning option would allow agricultural certification to remain in place.

C. Objectives & Policies for this Option in the Plan:

Objective 4: Create a County Purchase of Development Rights (PDR) program by 2012

Policy 1: Investigate the potential to create a county-controlled PDR program with a dedicated revenue source. Explore this potential as part of the 2012 Comprehensive Plan update, scheduled to begin in summer 2010. A number of Maryland counties have adopted their own PDR program including Calvert, Caroline, Carroll, Howard, and Montgomery. The 2006 LPPRP (page IV-21) contains a discussion of this concept including funding sources.

Objective 5: Slow the rate of development in the PPA, especially in PPA Areas 2 and 3

Policy 1: Continue planning efforts so that development is attracted to the Development District rather than to rural areas, including the PPA.

Policy 2: Carefully track trends in the PPA to ensure the County remains on pace to preserve an average of 2,500 acres of land per year in the PPA while allowing no more than approximately 1,200 acres of development (see Table 9-4 and discussion).

Policy 3: Based on the findings from Policy 2, by June, 2011 adopt zoning and development regulations that are protective of agricultural and forest land resources including changes in residential density in all or portions of the PPA from the current one unit per three acres to a density that will stabilize the land base, that of one unit per 20 acres.

Continue to allow TDRs at one TDR per three acres to help retain property owners' development equity. Ensure a market for TDRs remains strong by limiting development densities in the Development District while allowing higher densities only use of TDRs

Policy 4: Allow Intra-Family Transfers of property to be subdivided at a rate of 1 unit per 3 acres.

D. Notes from research on Calvert County's TDR Program:

1. Calvert County historically had 1 unit per 5 acres zoning and eventually down zoned properties to 1 unit per 20 acres but kept 1 unit per 5 acres only to be used as a TDR right.
2. The County Commission helped establish a Purchase of Development Rights program through funding a Land Trust non-profit agency to purchase and sell TDR's by making available a \$1,000,000. no interest loan to the Land Trust. The Land Trust has had success in buying land and selling TDR's. In one case the purchased 150 acres and divided it into 3 parcels and kept development rights for one house on each parcel. They sold the 3 parcels of land as well as the remaining TDR's off site and made a profit of several hundred thousand dollars to be used for future purchases.
3. It takes 5 TDR's (1 TDR is allotted per each acre) to build one housing units and each TDR has been valued between \$5,200-\$7,500 per each TDR per the County Planning Director.
4. One house is allowed per property without TDR's, but increased density in receiving areas above that requires TDR's.
5. TDR's are viewed as a way to protect farmland equity.

OPTION #2: PPA TDR OPTION (Similar to St. Mary's County)

A. Summary:

- Keep existing zoning in place
- Starts with 1 development right per parcel (regardless of property size)
- Allow increased density up to zoning limits but only with TDR's
- Greater density desired = greater preservation required
- Requires detailed analysis for the State to determine if it can work
- De-certification until verification that it can work and is acceptable in Charles County

B. Discussion:

Option 2: These policies focus on allowing an internal TDR transfer program within rural lands and the development district. This would likely result in the agricultural district being de-certified and to be later reinstated only if it can be proven by additional data and analysis to meet state legislative objectives. (Similar to St. Mary's County Program). Estimated time is 6 months to complete, revise and draft the data and analysis to include in the plan.

C. Objectives & Policies for this Option in the Plan:

Policy 6: Refine the County's TDR program to continue to make it a valuable contributor to the County's preservation toolbox. Potential refinements include use of TDRs under the Downtown Waldorf Vision Plan, a commercial TDR program, and programmatic changes as discussed in the 2006 LPPRP page IV-22. Explore these refinements as part of the 2010 Comprehensive Plan update, scheduled to begin in summer, 2010.

Policy 7: In order to stabilize farm and forest land resources, create a TDR program that limits development densities in rural areas to one development right per existing lot or parcel but provides a buy back TDR option to achieve allowable zoning densities in conjunction with preservation of resources such that the higher the project's density the more land is required to be preserved.

~~Policy 3: Based on the findings from Policy 2, by June, 2011 adopt zoning and development regulations that are protective of agricultural and forest land resources including changes in residential density in all or portions of the PPA from the current one unit per three acres to a density that will stabilize the land base, that of one unit per 20 acres.~~

~~Continue to allow TDRs at one TDR per three acres to help retain property owners' development equity. Ensure a market for TDRs remains strong by limiting development densities in the Development District while allowing higher densities only use of TDRs.~~

D. Notes from research on St. Mary's County TDR Program:

1. All land in rural areas is assigned 1 development right regardless of their zoning or the size of the parcel. If you have 20 acres you get 1 right or unit. If you have 100 acres you get 1 right or unit.
2. Sale of Rights (Transfer Area): The TDR's you can sell are based on your zoning, for which the zoning is 1 unit per 5 acres. So if you have 20 acres you can sell 4 TDR rights.
3. On Site Building Rights (Receiving Area) in rural areas. This is a scaled system. You can:
 - a). Build your 1 right on site provided you have at least five acres;
 - b). Build more than one unit on site based on the 1:5 zoning only if you preserve 10 additional acres for every additional unit. (Example: On your 20 acres site, your first right uses up 5 acres, your second right uses up 10 acres of your land. You have 5 acres remaining. In order to build the 3rd lot you would need to purchase 5 more acres to get to the 10 acre requirement). In other words, you can build up to your zoning (1 unit per 5 acres) only if you preserve 10 acres for every unit above your first "as right" unit.
 - c). You can build with TDR's up to 1 unit per 3 acres only if you buy more TDR's. For any development proposed above the zoning of 1 unit per 5 acres, every TDR requires 15 acres to be purchased.

OPTION #3: MANAGED GROWTH OPTION (Similar to our School Allocation Policy)

A. Summary:

- Sets annual growth limits and preservation requirements for each PPA district
- Establishes a ratio of preserve needed for each acre of development (e.g. 1.8 acres preserved for every 1 acre developed)

- Provides a 20 year planning horizon to meet goal
- Keeps zoning in place
- Allows development only with preservation
- Allows payment of a “fee in-lieu” of preservation
- Can reserve and use public preservation for minor projects
- Certification only if 20 year horizon is accepted by MDP and MALPF Board

B. Discussion:

Option 3 includes revised policies to focus on phased or limited growth in rural areas as an option to meet state legislative objectives. Emphasis would be on the review and tracking of development in PPA’s and sets annual growth limits in conjunction with annual preservation requirements. In order to maintain agricultural certification, a phased development chart will need to be strictly complied with and included in the plan. Final adoption by December 1st needed to retain agricultural certification.

C. Objectives & Policies for this Option in the Plan:

Objective 5: Slow the rate of development in the PPA, especially in PPA Areas 2 and 3

Policy 1: Continue planning efforts so that development is attracted to the Development District rather than to rural areas, including the PPA.

Policy 2: Carefully track trends in the PPA to ensure the County remains on pace to preserve an average of 2,500 acres of land per year in the PPA while allowing no more than approximately 1,200 acres of development (see Table 9-4 and discussion).

Policy 3: Implement a controlled development chart as stipulated in table XYZ that regulates the annual allowable development approvals in each of the preservation area boundaries only in conjunction with annual resource preservation goals for each of those 3 areas. Charles County will set preservation requirements and development limits on an annual basis in accordance with this table in order to achieve the goal of protecting 80% of the priority preservation farm and forest resource lands.

Policy 4: Provide a “Fee in Lieu” system to allow developers to pay into a Conservation Trust Fund to allow the County or a Land Trust to purchase lands for preservation.

~~Policy 3: Based on the findings from Policy 2, by June, 2011 adopt zoning and development regulations that are protective of agricultural and forest land resources including changes in residential density in all or portions of the PPA from the current one unit per three acres to a density that will stabilize the land base, that of one unit per 20 acres.~~

~~Continue to allow TDRs at one TDR per three acres to help retain property owners’ development equity. Ensure a market for TDRs remains strong by limiting development densities in the Development District while allowing higher densities only use of TDRs.~~

D. Notes from research on this option:

1. This option includes careful monitoring of both development approvals and preservation set asides in the priority preservation areas.
2. Annual limits are set on development approvals (Preliminary Plats, Final Plats and Building Permits) unless associated preservation is available.
3. Cluster subdivisions will help to meet the goals but may not be adequate enough to allow development
4. Preservation must be large enough to be used as productive farm or forest lands to qualify
5. It may be possible to reserve a certain amount of units on an annual basis for minor subdivisions.
6. Additional off-site preservation may be needed in conjunction with development projects. This could be provided by developers or other public agencies. Conservation efforts by 3rd parties would be counted towards the PPA goals.

OPTION #4: COMPREHENSIVE PLAN UPDATE

Option 4: Review Options 1-3 above as a part of the overall Comprehensive Plan update. Comprehensive Plan consultants will include expertise in economics. Lose agricultural certification until such time a clearer consensus can be reached with the public and the element adopted. This will allow additional time to further analyze the data needed for Option 2. Plan adopted is anticipated in Spring-Summer of 2012.

OPTION #5: NO CERTIFICATION OPTION

Option 5: Do not adopt a Priority Preservation Element of the Comprehensive Plan. Keep current zoning in place. Give up Agricultural Certification and associated benefits and funding opportunities.

Attachments

1. Copy of Slides to be Presented at Briefing on August 23rd
2. Draft of the Priority Preservation Area - Comprehensive Plan Element
3. Legislative Review Schedule
4. Fiscal Impact Review
5. Letters from State Agencies Outlining Issues of Concern

Charles County 2010 Comprehensive Plan Update: Proposed Priority Preservation Area Element

Planning Commission Briefing

August 23, 2010

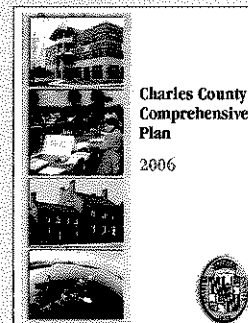
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Charles County Comprehensive Plan

**Public policy statement of the
County's land use and development
policies and actions**

**- Basis for zoning and land
development regulations**



Current Comprehensive Plan Status

- **Adopted in 2006**
- **Full plan review required by 2012**
- **Need to update Natural Resources chapter (sensitive areas) to propose a Priority Preservation Area**
 - **Applies to counties with Certified Agricultural Land Preservation Programs**
 - » **Includes Charles, Calvert, St. Mary's**

Agricultural Land Preservation Program

- **Certified by the State in 1996**
- **Allows County to keep 75% of agricultural transfer tax revenues for use in preservation.**
 - 33% if not certified
 - Worth \$3.3 million since 1997
- **To maintain certification county must designate a priority preservation area –agricultural and forest areas**
 - Agricultural Stewardship Act of 2006 (HB 2). HB 1354 (2007)
- **Deadline: December 1, 2010**

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What are Priority Preservation Areas?

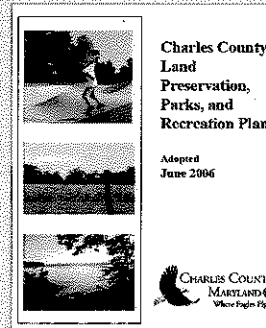
Areas governed by policies, ordinances, and procedures that:

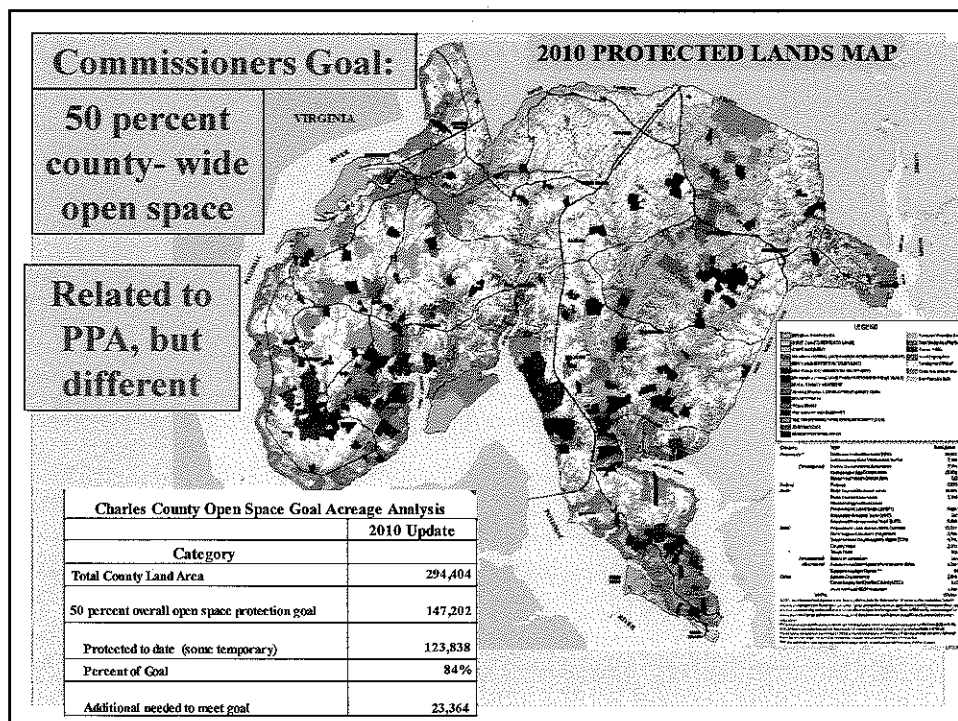
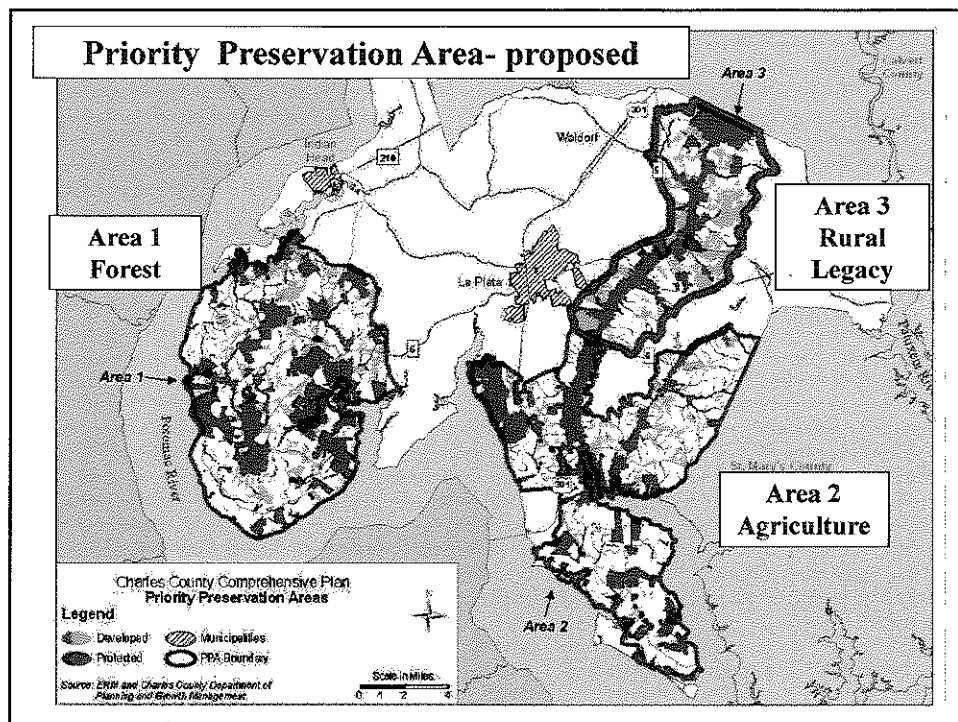
- stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources
- Support the ability of working farms to practice farming

The County's acreage goal for land to be preserved through easements and zoning shall equal at least 80% of the remaining undeveloped land in the area. Agricultural Stewardship Act of 2006 (HB 2).

Criteria for Designating PPA

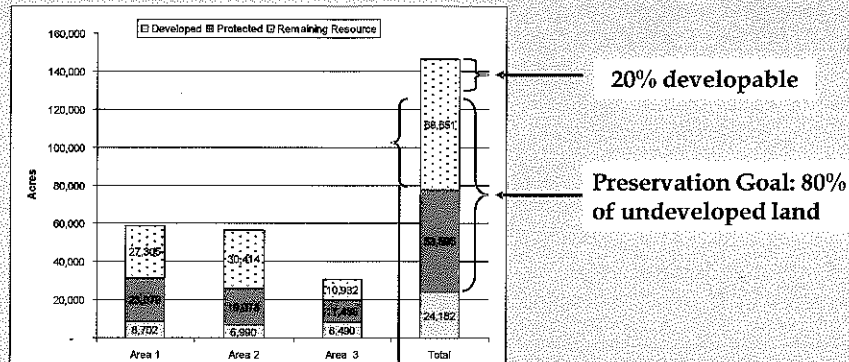
- Areas recommended in 2006 Land Preservation Parks and Recreation Plan (LPPRP)
- Locations of existing protected lands
- Soils data
- Forestry resources
- Knowledge of farms and other resources





01 (WA-5)

Priority Preservation Area Status, 2009



	Acres
1 Priority Preservation Area	146,428
2 Developed	24,182
3 Undeveloped (1-2)	122,246
4 Total Protection Goal (Row 3 x 80%)	97,797
5 Already Protected	53,595
6 Remaining Protection Goal (4-5)	44,202

Can the goal be achieved? Yes, but.....

	Development	Total Preservation
1 Total 2002-2007	7,235	14,996
2 Average per year (2002-2007)	1,206	2,499
3 Remaining protection goal		44,202
4 Years needed to reach protection goal (Row 3 divided by row 2)		18
5 Maximum area that could be developed (20% of remaining undeveloped)	24,449	Small window of time
6 Acres developed while land is protected (Row 2 x Row 4)	21,326	

Conclusions

- The preservation of 14,996 acres between 2002 and 2007 was an outstanding achievement
- PPA preservation goal is achievable if 2002 to 2007 preservation trends continue, but
 - The preservation/development ratio must be maintained. If there is less preservation and/or more development the goal will not be achieved
- Areas 1, 2, and 3 differ considerably in their preservation and development pictures
 - Achieving preservation in all three areas is important
 - The land base needs to be stabilized

Objectives and Key Policies (6/25/10 draft)

1. Maintain state certification of the County's Agricultural Land Preservation Program
2. Preserve an average of 2,500 acres of land per year in the PPA
 - Build on existing programs, target new programs
 - Refine the TDR program
 - Easements on resource land in cluster subdivisions
3. Increase the rate of preservation in PPA Areas 2 and 3

Objectives and Key Policies (6/25/10 draft)

- 4. Create a County Purchase of Development Rights (PDR) program**
- 5. Slow the rate of development in the PPA, especially in Areas 2 and 3**
 - Attract development to the Development District
 - Track development versus preservation trends in relation to goals
 - Adopt zoning and development regulations that are protective of agricultural and forest land resources
 - Change in residential density, 1 unit per 3 acres to 1 unit per 20 acres
 - Sources: State MDP/DNR correspondence, LPPRP, 2002 Rural Commission
 - Use TDRs to retain property owners' equity

Additional Implementation Options

1. Zoning

Ag. Program Recertification
likelihood - **HIGHLY PROBABLE**

- Rezone PPA from 1 unit per 3 acres, to 1 unit per 20 acres
- Allow intra-family subdivisions at 1 unit per 3 acres
- Retain 1 unit per 3 acres only as a development right to be used only as TDRs
- Lower base densities in Development District to create greater market for TDRs. Require TDRs for increases above base density.
- Use a Conservation Land Trust to serve as catalyst to buy and sell TDRs

Similar to Calvert County

Additional Implementation Options

2. TDR for PPA

Ag. Program Recertification
likelihood – POSSIBLE, but more
research & analysis needed

- Keep existing zoning in place
- Allow 1 development right per parcel (regardless of property size)
- Allow increased density up to current density limits but only through purchase of TDRs
 - More development requires, and results in, more preservation
- TDRs can be used in rural areas
- Needs study for applicability to Charles County

Similar to St. Mary's County

Additional Implementation Options

3. Managed Growth

Ag. Program Recertification
likelihood – PROBABLE, with
controlled growth policies

- Keep existing zoning in place
- Establish growth limits and preservation requirements
 - Based on 20% developable area over a 20 year planning horizon
- Establish a ratio of preservation needed for each acre of development (e.g. 1.8 acres preserved for every 1 acre developed)
- Permit development only if preservation occurs (track this annually)
- Reserve a portion of allowed development for minor subdivisions
- Preservation must be outside of existing protected land – could be in form of a fee-in-lieu

Similar to School Allocation Policy

$$\gamma = \frac{1}{2} \left(\frac{1}{\gamma_1} + \frac{1}{\gamma_2} \right)$$

Additional Implementation Options

4. Comprehensive Plan Update

Ag. Program Recertification
likelihood – UNLIKELY in
short term

- Review Options 1-3 above as a part of the 2012 Comprehensive Plan public involvement process

Additional Implementation Options

5. No action – do not seek Agricultural Land Preservation Program certification

- Do not adopt a Priority Preservation Element of the Comprehensive Plan.
- Keep current zoning in place.

Examples of Anticipated Effects of PPA Options

Consideration	Option				
	1. Zoning	2. TDR for PPA	3. Managed Growth	4. Comprehensive Plan Update	5. No action – do not seek certification
Likelihood of Agricultural Land Preservation Program Recertification	Highly Probable. Similar to many other counties that have certification (for example, Calvert, Anne Arundel, Baltimore). See also agency correspondence in Planning Commission information packet.)	Possible, but requires additional research to verify its workability and acceptability as a solution for Charles County (additional time needed – winter 2011)	Probable with policies requiring timing of development with preservation	Unlikely in short term but possible with new Comp Plan depending upon the preferred option selected (at least 18 month delay)	None. Approximately seven counties do not have certified agricultural land preservation programs (for example, Prince George's, Allegany, Dorchester). Howard County was certified for years, but opted to leave the program in 2007. Wicomico County was decertified in 2009.
Degree of support for the ability of working farms to practice farming	Moderate to strong; development would be more sparse than under current zoning. Would be supportive of small farms (less than approximately 20 acres)	Moderate to strong; large developments would be limited in number, and large areas would be preserved Potential to allow major subdivisions adjacent to farms	Moderate to strong; 80% of remaining undeveloped land would be preserved	Will depend on recommended policies	Low; absent other supportive actions, loss of certification would convey negative message; lack of support for working farms, lack of prestige from having a certified program
Effect on landowners' property value	Many property owners will perceive a loss of equity. Studies of effects of downzoning on property values have drawn different conclusions with respect to effects on property value* (see citations)	Many property owners will perceive a loss of equity. See note under zoning option	Some property owners (those interested in large developments) will perceive a loss of equity. See note under zoning option	Will depend on recommended policies	No change from current.

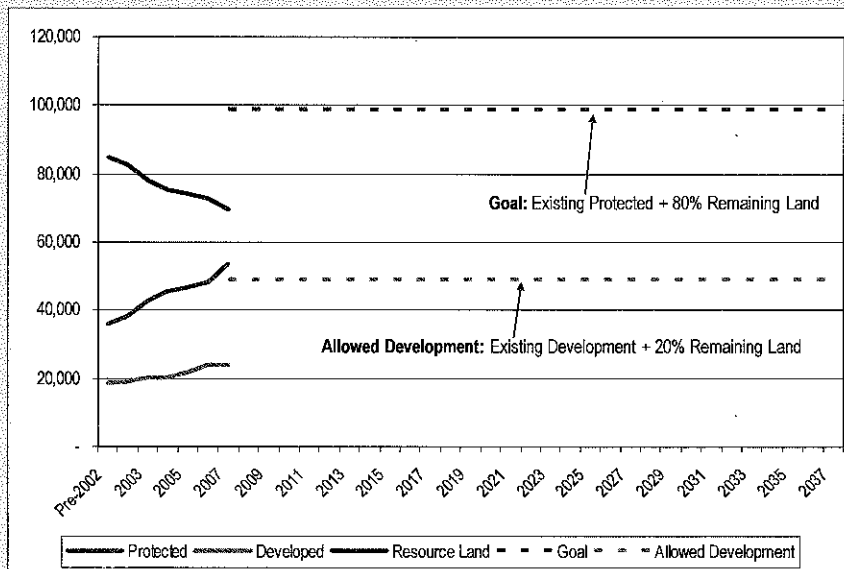
See handout for additional details

Next Steps

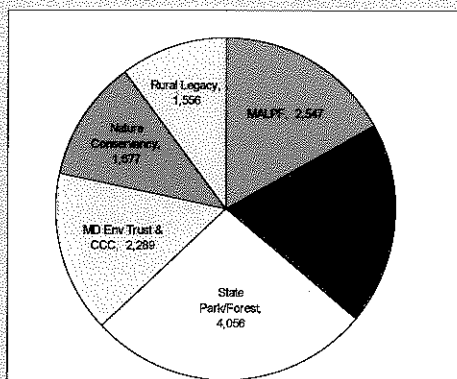
1. September 1. Deadline for 60 day review comments
2. September 14, 16, 21 - Public Outreach meetings
3. October 4 : Planning Commission Public Hearing
4. October 25: Planning Commission Worksession (recommendation)
5. November: County Commissioners Review
6. December 1: Conditional Agricultural Land Preservation Program recertification deadline

The following slides for use only if needed to respond to specific questions

PPA Preservation & Development - Pre-2002 to 2007



PPA Land Preservation 2002-2007

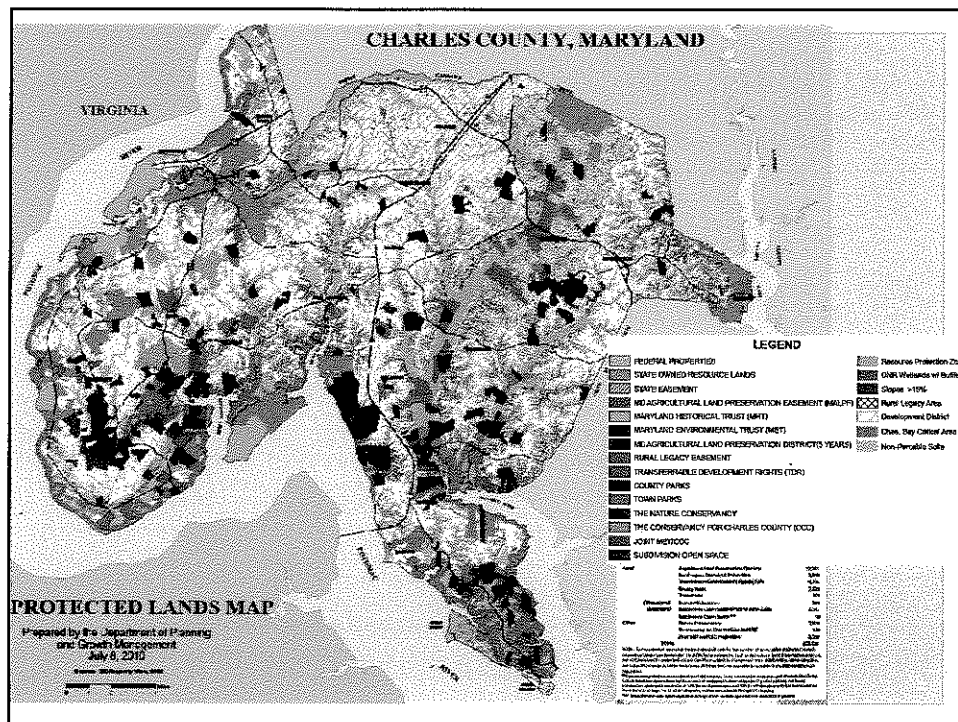


Consequences of not designating PPAs?

Loss of funds, prestige, credibility

Funds 2002 to 2007	\$ Millions
Real Estate Transfer Tax	
Without Certification	\$1.08
With Certification	\$2.47
Difference	\$1.38
Rural Legacy	\$6.45
Total	\$7.84

Other funds at risk: Program Open 2002- 2007 \$ 6.9 million
 Space Funds (state component) 2008-2009 \$ 23 million



Summary of Anticipated Effect of Proposed PPA Options on Key Considerations, 8-12-10

Option					
Consideration	1. Zoning	2. TDR for PPA	3. Managed Growth	4. Comprehensive Plan Update	5. No action – do not seek certification
1. Likelihood of Agricultural Land Preservation Program Recertification	Highly Probable. Similar to many other counties that have certification (for example, Calvert, Anne Arundel, Baltimore. See also agency correspondence in Planning Commission information packet.)	Possible, but requires additional research to verify its workability and acceptability as a solution for Charles County (additional time needed – winter 2011)	Probable with policies requiring timing of development with preservation	Unlikely in short term but possible with new Comp Plan depending upon the preferred option selected (at least 18 month delay)	None. Approximately seven counties do not have certified agricultural land preservation programs (for example, Prince George's, Allegany, Dorchester). Howard County was certified for years, but opted to leave the program in 2007. Wicomico County was decertified in 2009.
2. Likely to meet state expectations for stabilizing land base so that development does not convert or compromise agricultural or forest resources	Yes	Possible	Yes	No	No
3. Degree of support for the ability of working farms to practice farming	Moderate to strong; development would be more sparse than under current zoning. Would be supportive of small farms (less than approximately 20 acres)	Moderate to strong; large developments would be limited in number, and large areas would be preserved	Moderate to strong; 80% of remaining undeveloped land would be preserved	Will depend on recommended policies	Low; absent other supportive actions, loss of certification would convey negative message: lack of support for working farms, lack of prestige from having a certified program

Consideration	Option				
	1. Zoning	2. TDR for PPA	3. Managed Growth	4. Comprehensive Plan Update	5. No action – do not seek certification
4. State funding for preservation in Charles County	No loss and probable increase due to County supporting State land preservation policies	If accepted by state, no loss and possible increase due to County supporting State land preservation policies	No loss and probable increase due to County supporting State land preservation policies	Will depend on recommended policies	Loss of agricultural transfer tax revenues (\$0.75 million annual average) and, likely loss other preservation funds such as Rural Legacy (\$4.2 estimated annual average funding)
5. Effect on rural development patterns in PPA	Potential number of units would be reduced. Development would be more rural than under current zoning Land could potentially be used up in larger (20 acre) blocks	Potential number of units would be reduced, due to requirement to purchase TDRs. Could result in a patchwork of development in the PPA (with potential for suburban pattern of clustered development)	No change, in theory, in potential number of units. No more than 20% of remaining undeveloped land could be developed. (with potential for suburban pattern of clustered development).	Will depend on recommended policies	Current patterns will likely continue

Consideration	Option				
	1. Zoning	2. TDR for PPA	3. Managed Growth	4. Comprehensive Plan Update	5. No action – do not seek certification
6. Effect on rate of preservation	Unknown; dependent on preservation program activity. Intent of policy is to allow time for preservation to take place	Moderate to high increase; development above 1 unit would require preservation through purchase of TDRs. Development is linked to preservation purchases/activity	Moderate to high increase; dependent on preservation program activity. Development limited until preservation is in place. Desire of landowners to develop by also preserving land could increase the rate of preservation (buy and go mechanism similar to the County's school allocation policy)	Will depend on recommended policies	High reduction; county will lose agricultural transfer tax revenues and, potentially, other preservation funds such as Rural Legacy
7. Effect on landowners' property value	Many property owners will perceive a loss of equity. Studies of effects of downzoning on property values have drawn different conclusions with respect to effects on property value* (see citations)	Many property owners will perceive a loss of equity. See note under zoning option	Some property owners (those interested in larger developments) will perceive a loss of equity. See note under zoning option	Will depend on recommended policies	No change from current.

Consideration	Option				5. No action -- do not seek certification
	1. Zoning	2. TDR for PPA	3. Managed Growth	4. Comprehensive Plan Update	
8. Timing. Ability to develop when landowner wishes	No change from current. Market dependent	Could make timing more complex; dependent on development market and on TDR market County can mitigate timing complexity through a TDR bank	Dependent on market and preservation progress. Development may be held up if preservation does not take place.	Will depend on recommended policies	No change from current.
9. Effect on demand for TDRs	High; development above base density in Development District would have to use TDRs	High; all development above 1 unit would require use of TDRs	No change from current; no increased demand being created	Will depend on recommended policies	No change from current; no increased demand being created Possible reduction due to anticipated loss of momentum for agricultural preservation
10. Program Complexity: Administrative and Public Understanding	High: TDRs; reduction in base density in Development District	High: TDRs; purchase of TDRs is needed to achieve former density (similar to downzoning)	High: growth limits and preservation requirements that can affect landowner decision-making	Will depend on recommended policies	Low. Agricultural preservation program would remain but would be smaller and less active.
11. Likelihood of reaching consensus with the public	Low, assuming December 1 Plan deadline is met (June 2011 for zoning change)	Low, assuming December 1 Plan deadline is met (June 2011 for zoning change)	Low, assuming December 1 Plan deadline is met (June 2011 for zoning change)	Moderate to High;; allows additional time through Comprehensive Plan process	Low, assuming December 1 Plan deadline is met.

* Re Consideration #7. See, for example:

Etgen, Rob, et., al. Downzoning: Does it Protect Rural Landscapes and Maintain Equity for the Landowner? Submitted to the Maryland Center for Agro-Ecology, December 2003..

Michael, Dr. Jeffrey et. al. Downzoning and Rural Land Markets: A review of two recent studies in Maryland and New Jersey. Submitted to the Maryland Center for Agro-Ecology, July 2006.

Agriculture and Forestry

Priority Preservation Area - Amendment to Chapter 9 of the Comprehensive Plan

Introduction

This Comprehensive Plan recommends a Priority Preservation Area (PPA) in Charles County. Maryland House Bill 2, passed in 2006, requires counties whose agricultural land preservation program is certified by the State to include a Priority Preservation Element in their Comprehensive Plans as one of the conditions of maintaining certification. Certification allows the County to keep 75 percent of agricultural land transfer tax revenues¹ for use in preservation compared to 33 percent if not certified. This differential was worth approximately \$3.3 million to Charles County land preservation between 1997 and 2007.

Under state law a PPA is an area that²

- Contains productive agricultural or forest soils, or is capable of supporting profitable agricultural and forestry enterprises where productive soils are lacking;
- Is governed by local policies, ordinances and procedures that i) stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources, and ii) support the ability of working farms to practice farming;
- Is large enough to support agricultural and forestry activities in conjunction with development, and;
- Is accompanied by the County's acreage goal for land to be preserved through easements and zoning in the PPA equal to at least 80 percent of the remaining undeveloped areas of land in the area.

Charles County's proposed PPA is in three parts: a forestry-focused area in the western part of the County (Area 1); a southern agriculture-focused area in the southern part of the County (Area 2); and a mixed agriculture-forestry area in the northern part of the County (Area 3) that is also the County's Rural Legacy Area that was approved in 1998 (See Figure 9-2). In all, the PPA includes approximately 146,400 acres or 50 percent of the County's land area.

Goals

Establish a Priority Preservation Area (PPA) capable of supporting profitable agricultural and forestry enterprises.

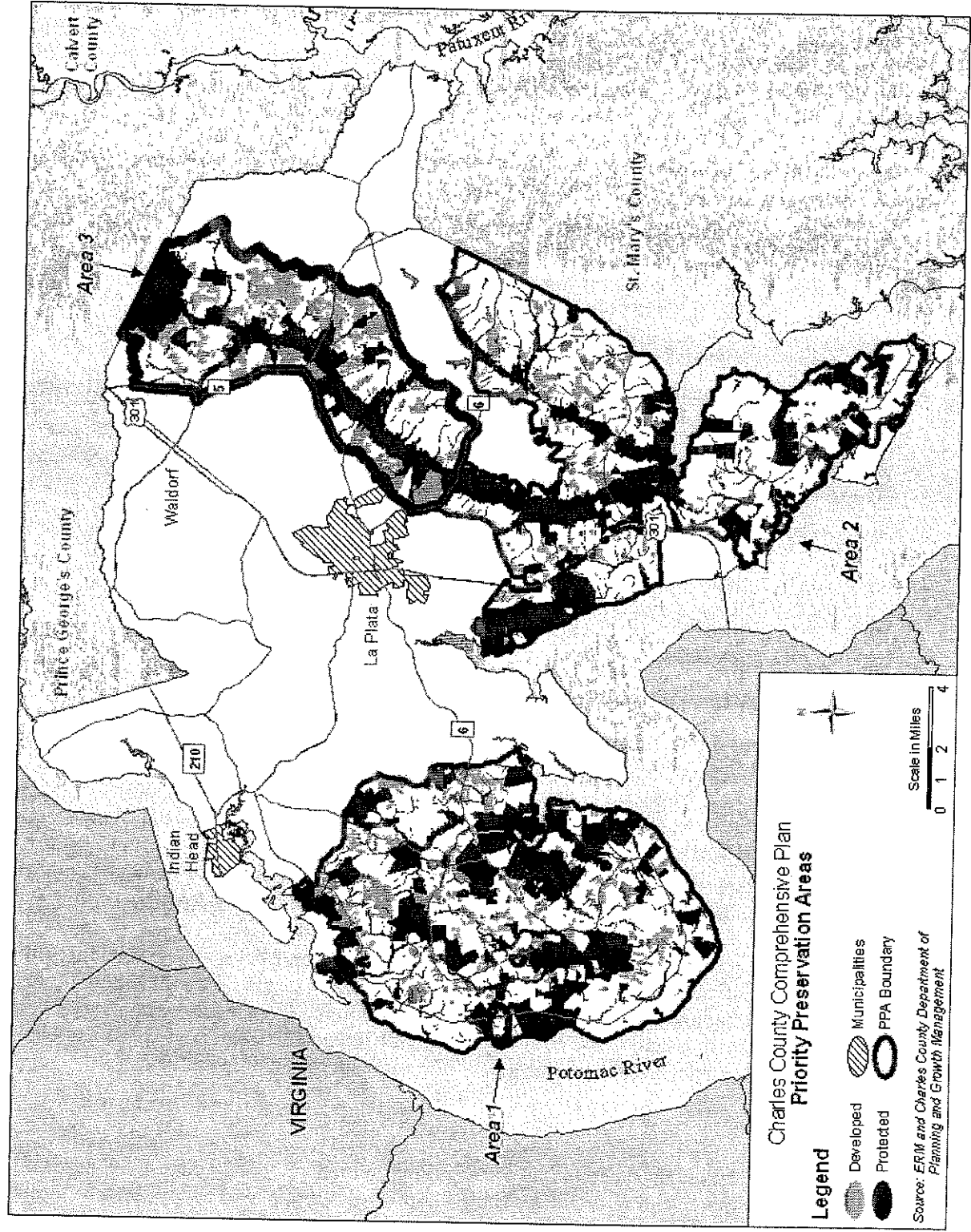
Preserve at least 80 percent of the remaining undeveloped land within the PPA.

Continue State certification of the County's agricultural land preservation program and utilize the associated financial benefits for the protection of farm and forest land as a natural resource community asset and a way of life for future generations of Charles County residents.

¹ The tax levied when agricultural land is sold for non-agricultural use.

² The full definition is in the Annotated Code of Maryland Agriculture Article (2-518). See also HB 2 (2006) and HB 1354 (2007)

Figure 9-2 Priority Preservation Area



Data and Analysis

Coincidentally, the percentage of land included in the proposed PPA is the same percentage of the County's land targeted by the County Commissioner's to protect as open space, i.e., 50 percent of the County's land area. This goal is stated and explained in the 2006 Land Preservation, Parks and Recreation Plan. However, the land areas in the two 50 percent numbers are different. While land in the PPA will be a major contributor to achieving the 50 percent open space goal, land outside the PPA, including land in the Development District, for example, will also contribute.

Consistent with the requirements of the law, PPA boundaries containing productive agriculture soils and forest resources were defined using the following criteria:

- Areas recommended in the 2006 LPPRP;
- Land outside the Development District, including the Deferred Development District, and land outside of Priority Funding Areas;
- The Zekiah Watershed Rural Legacy Area;
- Rational, simple boundaries, following where possible natural features and roads, rather than property lines;
- Areas with agricultural districts, indicating potential interest in permanent agricultural land preservation;
- Areas with high concentrations of Class I, II and II agricultural soils;
- Areas of the county least compromised by development;
- Areas with commercial forest resources;
- Existing preserved areas;
- Areas with contiguous resources.

Because of the County's desire to create rational simple boundaries around areas with contiguous resources, the PPA does contain some developed areas, including rural villages, and some environmentally sensitive and recreation-oriented areas in addition to the economically productive agricultural and forest lands that are the focus of the PPA. Existing developed areas (including platted undeveloped subdivisions and any anticipated development in rural villages) would not be affected by creation of the PPA. Indeed the state legislation that created PPAs envisioned a certain amount of development taking place in the PPA (up to 20 percent of the land area).

The County's goals of preserving rural resources, character and open space also apply not only within the PPA, but also to areas outside the PPA. Many areas outside the PPA contain resources worthy of protection, and the County's goal to protect 50 percent open space countywide cannot be met solely by protecting land in the PPA. The major difference between land inside and outside the PPA is the extent and degree of contiguousness of rural resources within the PPA.

Preservation Goal

The land preservation goal within the PPA is approximately 97,800 acres, 80 percent of the remaining undeveloped land in the PPA (Table 9-3 row 4). Of this total approximately 53,600 acres are already protected from a variety of programs so that the remaining protection goal is approximately 44,200 acres (Table 9-3 rows 5 and 6). The boundary of the PPA and the acreage goal may be refined with the State when the County applies for recertification of its agricultural land preservation program.

Table 9-3 Priority Preservation Area Acreage Goal

	Acres			
	Area 1	Area 2	Area 3	Total
1 Priority Preservation Area	59,086	56,482	30,860	146,425
2 Developed	8,702	6,990	8,490	24,182
3 Undeveloped (1-2)	50,384	49,492	22,371	122,244
4 Total Protection Goal (Row 3 x 80%)	40,307	39,593	17,896	97,795
5 Already Protected	23,079	19,078	11,438	53,595
6 Remaining Protection Goal (4-5)	17,228	20,516	6,458	44,208

Note: The data in this table use 2007 as the base line. This year was selected as the most recent year for which a broad set of consistent land use, development, and preservation data were available on a comparable basis for progress analysis (see text discussion)

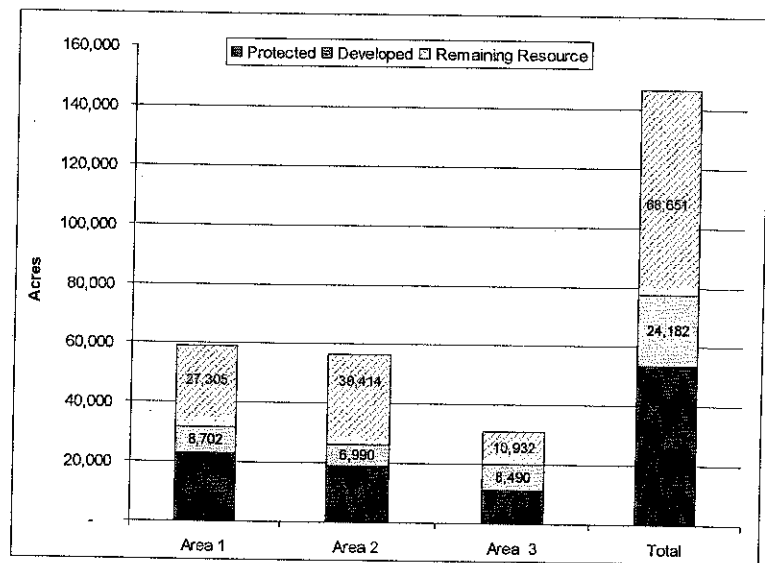
Sources: Charles County Department of Planning and Growth Management; ERM.

Achieving this goal will be a significant challenge for the County. While Charles County has been very successful to date in its preservation efforts³, policies, ordinances and procedures must be in place to stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources before the goal is achieved.

The 2006 Land Preservation Parks and Recreation Plan (LPPRP) discussed the county's policies, ordinances and procedures as part of its evaluation of the agricultural land preservation program. The LPPRP concluded that "Given the County's goal of preserving 64,000 acres of agricultural land, aggregate program performance to date has been unsuccessful. Given the continuing loss of farmland recorded by the Agricultural Census, achieving the goal of 64,000 acres will be very difficult without significant, directed effort to enhance existing programs or to create new programs" (pages IV-17, 18)⁴. The LPPRP recommended the following (pages IV-20 et seq.):

1. Adopt a target area for agricultural land preservation, tentatively identified in the Allens Fresh, Cobb Neck, and Charlotte Hall areas.
2. Create County funding mechanisms to support agricultural preservation including a County Purchase of Development Rights (PDR) program.

Figure 9-3 Priority Preservation Area Status, 2009



³ As of 2009 the County had protected 107,383 acres, 73 percent of the 50% countywide open space goal of 147,202 acres (some of the 107,383 acres have temporary protection).

⁴ The 64,000 acre goal was originally adopted in 1992 by the County's Agricultural Land Preservation Advisory Board. See the LPPRP for additional detail.

Agriculture and Forestry

3. Adopt zoning and development regulations that are protective of agricultural land resources.
4. Revise the County's transfer of development rights (TDR) program.
5. Advocate for higher levels of State land preservation funding and additional structural economic development support.

Since the LPPRP there has been some activity on most of these recommendations.

1. Target area. The LPPRP tentatively identified the Allens Fresh, Cobb Neck, and Charlotte Hall areas as a target area. These areas have been refined and combined with forest resource areas within the PPA of this Comprehensive Plan.
2. Funding. Charles County does not have a dedicated source of revenue to support farmland preservation on an annual basis, but instead relies on the State program and intermittent County funding through its capital budget. In fiscal years 2008, 2009, and 2010 the County contributed \$300,000 per year towards land preservation activities. This limited funding is typically used as a matching fund to purchase conservation easements under the Maryland Agricultural Land Preservation Foundation (MALPF) Program.
3. Zoning. Zoning changes discussed in the LPPRP (clustering, and adjustments to the TDR program) have not been enacted, though zoning amendments that would require the use of TDRs for redevelopment in downtown Waldorf were approved by the County Commissioners in Spring 2010. The LPPRP discussed downzoning as another potential tool to protect agricultural land resources but stated it was a tool that should only be considered if other incentive-based programs were not working. The question of whether other programs are working is discussed below.
4. TDR program. The County studied the potential for a commercial TDR program in 2009. The study concluded that implementing a commercial TDR program had the potential to add both flexibility and liquidity to the Charles County TDR program⁵. No action was taken because of weak demand brought about by the economic recession that began in 2008. County staff completed a report on TDRs in April 2010. This report documents the history of the TDR program and makes recommendations for programmatic changes.
5. State support. The County continues to advocate for higher levels of State land preservation funding. The economic recession has also had severe effects on state funding.

Preservation Goal Analysis

Will the County be able to achieve the preservation goal for the PPA, a minimum additional 44,200 acres, without new policies, ordinances and procedures? To answer this question, in preparation for this Comprehensive Plan Amendment, the County undertook a careful examination of development and preservation trends in the recommended PPA for the six-years between 2002 and 2007. Table 9-4 summarizes the results.

⁵ Charles County Transferable Development Rights Program Expansion Assessment, Environmental Resources Management and ACDS, March 2009.

Table 9-4 Preservation and Development Analysis 2002 - 2007

	Acres							
	Area 1 (West)		Area 2 (South)		Area 3 (North)		Total	
	Develop- ment	Preserva- tion	Develop- ment	Preserva- tion	Develop- ment	Preserva- tion	Develop- ment	Preserva- tion
1 Total 2002-2007	2,074	9,445	1,894	3,866	3,267	1,685	7,235	14,996
2 Average per year	346	1,574	316	644	545	281	1,206	2,499
3 Protection goal (from Table 9-3)		17,228		20,516		6,458		44,202
4 Years needed to reach protection goal (Row 3 divided by row 2)		11		32		23		18
5 Maximum area that could be developed (from Table 9-3)	10,077		9,898		4,474		24,449	
6 Acres developed while land is protected (Row 2 x Row 4)	3,783		10,051		12,521		21,326	

Sources: Charles County Department of Planning and Growth Management; ERM.

Note: Table numbers are rounded.

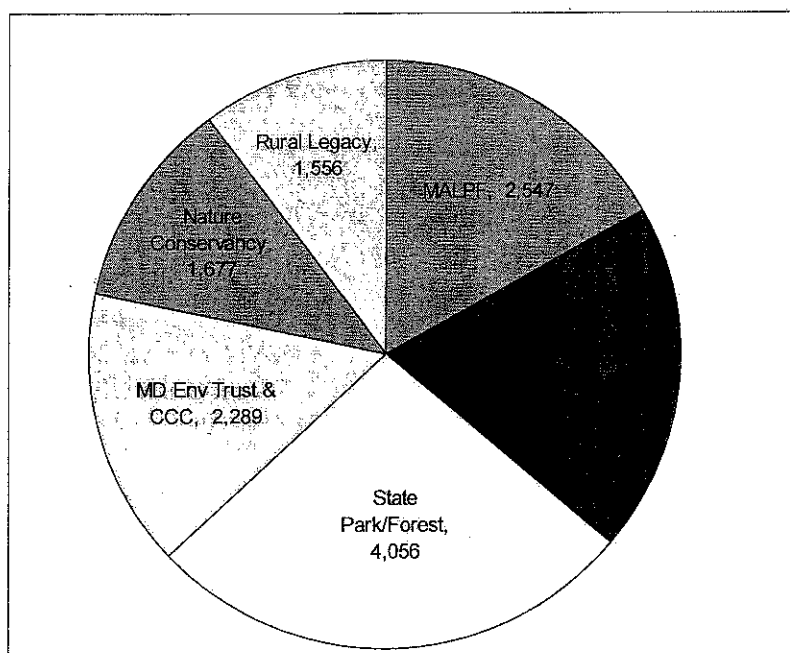
Between 2002 and 2007, for the PPA as a whole, 7,235 acres were developed and 14,996 acres were protected, for an average per year of 1,206 acres developed and 2,499 acres protected. If these trends were to continue over the next 18 years, the County would be able to achieve the preservation goal; approximately 45,000 acres would be preserved (18 x 2,499) while approximately 21,708 acres would be developed (18 x 1,206). This is good news in that it shows that there is potential to achieve the goal. However, the summary numbers mask some uncertainties:

- The preservation of 14,996 acres between 2002 and 2007 was an outstanding achievement by county, State, and non-governmental programs and agencies, representing almost 15 percent of all land that has ever been preserved in Charles County (see Table 9-5 and Figure 9-4). Some of the major land preservation accomplishments in Area 1 were Heartwood Forest an approximately 3,100-acre multi-property area, an approximately 500-acre Natural Resource Management Area in Nanjemoy, and Nanjemoy Creek Preserve an approximately 850-acre tract protected by the Nature Conservancy. Two MALPF easement acquisitions in Area 2 totaled over 660 acres and three Rural Legacy easement acquisitions in Area 3 totaled approximately 770 acres. Close to 2,900 acres were preserved through the TDR program. Given the reduction in funding for preservation due to the recession that began in 2008, repeating this 14,996-acre achievement for the next three six-year periods is highly uncertain.
- If the pace of development were to increase over the next few years, the goal could not be achieved. For example, if the average pace of development increased from 1,206 acres to 1,370 acres per year (see Table 9-4 Total Development Column), the total acres developed over 18 years would be 24,660, exceeding 20 percent of the remaining land in PPA and not leaving enough of a land base to achieve the minimum 80 percent goal. Conversely if the pace of development were to slow, more time would be available for the preservation goal to be accomplished.
- Areas 1, 2, and 3 differ considerably in their preservation and development pictures. While the State considers the PPA as a single entity, achieving high levels of preservation in all three areas is important to this Comprehensive Plan chapter's goal: "Protect the land resources necessary to support the County's agricultural industry and enhance its rural character." As shown in Table 9-4:
 - Area 1 (west) has the most preservation and the least development pressure. Based on the trend between 2002 and 2007, even after 18 years a considerable amount of land would remain for additional preservation above 80%.

- Area 2 (south) has had a good deal of preservation, especially from the Maryland Agricultural Land Preservation Foundation (MALPF) and the County's TDR program but also a lot of development. Based on the trend between 2002 and 2007, after 32 years the preservation goal would be achieved (20,516/644), however, at the same time, more than 20 percent of the remaining undeveloped land will have been developed.
- Area 3 (north) has had the least preservation and the most development. Development pressure in Area 3 is high because it is in the northern part of the County near the Development District and contains suitable soils for on-site septic systems. Nearly all the preservation has been through the Rural Legacy program. Based on the trend between 2002 and 2007, after only 8 years more than 20 percent of the remaining undeveloped land will have been developed (4,474/545).

As of 2010, the economic recession that began in 2008 continues and a protracted recovery is anticipated, which will likely continue for several years. While the pace of development will be impacted, many of the financial resources for preservation previously available from the State of Maryland are anticipated to be drastically reduced, some of which has already occurred.

Figure 9-4 Land Protected in the Priority Preservation Area, 2002 to 2007



Maryland Environmental Trust - 2,277 acres, Conservancy for Charles County - 12 acres
MALPF - Maryland Agricultural Land Preservation Foundation

Table 9-5 Protected Land by Program in the PPA 2002 to 2007

		Acres							Total
		MD Ag. Land Preserva- tion Foundation	Transfer of Develop- ment Rights	Rural Legacy	State Park/ Forest	MD Environ- mental Trust	Conservancy for Charles County	Nature Conser- vancy	
Area 1	2002	-	-	-	509	223	-	227	
	2003	-	-	-	2,813	407	12	30	
	2004	416	569	-	329	178	-	999	
	2005	137	140	-	-	222	-	144	
	2006	-	317	-	-	481	-	194	
	2007	-	636	-	275	105	-	83	
	Total (02-07)	553	1,661	-	3,927	1,615	12	1,677	9,445
Area 2	2002	509	-	-	-	91	-	-	
	2003	420	330	-	-	115	-	-	
	2004	-	-	-	-	159	-	-	
	2005	-	-	-	-	235	-	-	
	2006	65	189	-	-	62	-	-	
	2007	1,000	691	-	-	-	-	-	
	Total (02-07)	1,994	1,210	-	-	662	-	-	3,866
Area 3	2002	-	-	554	-	-	-	-	
	2003	-	-	417	129	-	-	-	
	2004	-	-	136	-	-	-	-	
	2005	-	-	93	-	-	-	-	
	2006	-	-	331	-	-	-	-	
	2007	-	-	26	-	-	-	-	
	Total (02-07)	-	-	1,556	129	-	-	-	1,685
PPA Total (02-07)		2,547	2,871	1,556	4,056	2,277	12	1,677	14,996

Sources: Charles County Department of Planning and Growth Management; ERM.

Objectives and Policies

The following objectives and policies are designed to implement the goals set forth on page 9-10 and are based on the data and analysis in the subsequent portions of this element.

Objective 1 *Maintain state certification of the County's Agricultural Land Preservation Program by taking actions to sustain the county's ability to meet the qualification criteria.*

Policy 1 Work with the State Department of Planning and the Maryland Agricultural Land Preservation Foundation to certify the PPA based on this Comprehensive Plan, and maintain other commitments and responsibilities under the program.

Policy 2 Implement regulatory measures and capital purchases for conservation easements to better stabilize and protect farmland from development.

Objective 2 *Preserve an average of 2,500 acres of land per year in the PPA*

Policy 1 Work aggressively with preservation-oriented State, and non-governmental programs and agencies to continue preservation efforts in all areas of the PPA.

Policy 2 Focus attention on programs and agencies with a track record of preservation in the PPA: MALPF, TDR, Rural Legacy, State Program Open Space, Maryland Environmental Trust, Nature Conservancy.

Policy 3 Seek preservation interest from other programs and agencies. Pay particular attention to federal programs such as the Baywide Treasured Landscapes initiative announced by the Environmental Protection Agency in 2009 that would use portions of the federal Land and Water Conservation Fund to preserve land in the Chesapeake Bay watershed.

Policy 4 Explore strategic locations for Charles County parks and open space acquisitions in the PPA. While the County owns approximately 400 acres of parkland in the PPA, no county land was added to the inventory between 2002 and 2007.

Policy 5 Work with the Conservancy for Charles County to increase its role in preservation in the PPA.

Policy 6 Refine the County's TDR program to continue to make it a valuable contributor to the County's preservation toolbox. Potential refinements include use of TDRs under the Downtown Waldorf Vision Plan, a commercial TDR program, and programmatic changes as discussed in the 2006 LPPRP page IV-22. Explore these refinements as part of the 2012 Comprehensive Plan update, scheduled to begin in summer 2010.

Policy 7 Obtain preservation easements or other protection measures on the resource land components of cluster subdivisions (outside the Resource Protection Zone which is already protected) so that this land may count towards the PPA preservation goal. Keep an accurate inventory of these areas, and note that this will necessitate a revision to the types of land that constitute open space under the County's open space acreage accounting.

Objective 3 *Increase the rate of preservation in PPA Areas 2 and 3 by 50 percent over the 2002 to 2007 pace*

Policy 1 Prioritize staff time to increase and broaden the use of different preservation programs in Areas 2 and 3.

Policy 2 Continue to aggressively pursue Rural Legacy funding in Area 3.

Objective 4 *Create a County Purchase of Development Rights (PDR) program by 2012*

Policy 1 Investigate the potential to create a county-controlled PDR program with a dedicated revenue source. Explore this potential as part of the 2012 Comprehensive Plan update, scheduled to begin in summer 2010.

A number of Maryland counties have adopted their own PDR program including Calvert, Caroline, Carroll, Howard, and Montgomery. The 2006 LPPRP (page IV-21) contains a discussion of this concept including funding sources.

Objective 5 *Slow the rate of development in the PPA, especially in PPA Areas 2 and 3*

Policy 1 Continue planning efforts so that development is attracted to the Development District rather than to rural areas, including the PPA.

Agriculture and Forestry

Policy 2 Carefully track trends in the PPA to ensure the County remains on pace to preserve an average of 2,500 acres of land per year in the PPA while allowing no more than approximately 1,200 acres of development (see Table 9-4 and discussion).

Policy 3 Based on the findings from Policy 2, by June 2011 adopt zoning and development regulations that are protective of agricultural and forest land resources including changes in residential density in all or portions of the PPA from the current one unit per three acres to a density that will stabilize the land base, that of one unit per 20 acres.

Continue to allow TDRs at one TDR per three acres to help retain property owners' development equity. Ensure a market for TDRs remains strong by limiting development densities in the Development District while allowing higher densities only use of TDRs

CHARLES COUNTY GOVERNMENT
Department of Planning and Growth Management
Melvin C. Beall, Jr., P.E., Director




CHARLES COUNTY
MARYLAND
Where Eagles Fly™



INTEROFFICE MEMORANDUM

TO: Planning Commission

FROM: Steven Ball, Planning Director, AICP, LEED AP 

DATE: August 17, 2010

SUBJECT: Priority Preservation Areas (PPA's) - Comprehensive Plan Amendment Legislative Review Process

The following is the schedule needed in order for the County Commissioners to be able to consider this before the required adoption deadline of December 1st. The Commissioners requested staff include community outreach meetings which we worked into the schedule.

Please note that due to the tight time frame that public comment periods are short but for those following the process they should still be able to submit written comments for consideration.

June 22: County Commissioner briefing
June 28: Transmittal to state agencies (required 60 day review)
August 23: Planning Commission briefing
September 8: Finalize responses from state agencies,
September 14: 1st Public Outreach, PPA #1 (Tuesday evening with Farm Bureau)
September 16: 2nd Public Outreach, PPA #2 (Thursday evening)
September 21: 3rd Public Outreach, PPA #3 (Tuesday evening)
September 28: Transmit staff report to Planning Commission members
October 4: Planning Commission Public Hearing
October 14: Public Comment Period Ends (10 day comment period)
October 19: Summarize comments; transmit final draft to Planning Commission
October 25: Planning Commission Work Session
November 1: Transmit staff report to County Commissioners
November: County Commissioners Review – specific date to be scheduled
November 30: Last day for adoption of PPA Element
December 1: Adoption deadline

CHARLES COUNTY GOVERNMENT

Department of Fiscal & Administrative Services
Deborah E. Hudson, CPA, Director



TRANSMITTAL

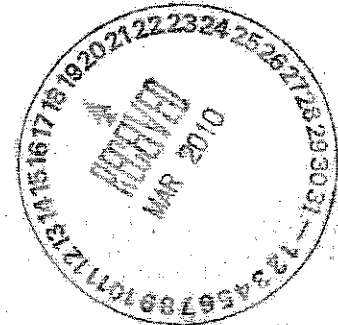
TO: Steven Ball
Planning Director

FROM: Deborah E. Hudson, CPA *[Signature]*
Director

SUBJECT: Fiscal Impact Review – County Commissioners Briefing on the Water Resources Element of the Charles County Comprehensive Plan & Priority Preservation Element of the Charles County Comprehensive Plan

DATE: March 18, 2010

- ☐ For Your Information
- ☐ For Approval
- ☒ Per Your Request
- ☐ Review and comment by
- ☐ Review and Provide Appropriate Response (Draft) by
- ☐ Review and Provide TO/THRU MEMO to
- ☐ Review and Take Appropriate Action



REMARK:

Per your request, attached is a memo from Jake Dyer, Budget Analyst III, indicating the fiscal impact on the County Commissioners Briefing on the Water Resources Element of the Charles County Comprehensive Plan & Priority Preservation Element of the Charles County Comprehensive Plan. Please review this memo and contact me if you have any questions.

cc: Rebecca Bridgett, County Administrator
Chuck Beall, Director, PGM

CHARLES COUNTY GOVERNMENT

Department of Fiscal & Administrative Services
David M. Eicholtz, Budget Chief



INTEROFFICE MEMORANDUM

TO: Deborah Hudson, CPA, Director *DEH*
THRU: David Eicholtz, Chief of Budget *ME*
FROM: Jake Dyer, Budget Analyst III *JD*
SUBJECT: Fiscal Impact Review – County Commissioners Briefing on the Water Resources
Element of the Charles County Comprehensive Plan & Priority Preservation Element of
the Charles County Comprehensive Plan
DATE: March 17, 2010

PART I:

Part one of this presentation is the Water Resource Element (WRE), a required addition to the County Comprehensive Plan. WRE is required by HB 1141 that requires Charles County to ensure that water supplies and sewer capacity can support projected growth. The presentation projects water demand in 2030 and concludes that in most scenarios, existing water sources are adequate to support 2030 demands but it must be managed carefully.

To address the County's water needs in the deficient scenario (500,000 gallons per day needed), the presentation gives an option to purchase additional water up to 5 million gallons per day (MGD). The cost per year ranges from \$454,000 (at 500,000 gallons per day) to \$4,544,000 (at 5 MGD). Currently the Water & Sewer Fund provides funding for Charles County to purchase up to 1.4 MGD from WSSC. If the Water & Sewer Fund provides additional funding to purchase 5 MGD from WSSC the water user fee will need to be raised. If the County purchased 500,000 gallons per day, the average water user customer would see their quarterly bill increase by 6% or \$3.27. If the County purchased 5 MGD the impact would be 60.1% or \$32.69 per quarter.

Another option to address this issue is to drill a new well with a capacity of 500,000 gallons per day. Our latest new well project is Waldorf Well #17 which has a budget of \$1.8 million. The estimated Debt Service cost for new well would be \$163,500 per year for 15 years. If this cost becomes a user fee cost, the average water user customer would see their quarterly bill increase by 2.2% or \$1.18 per quarter.

PART II:

Part Two of this presentation is the Sensitive Areas Element, another required addition to the County's Comprehensive Plan. State law requires the designation of Priority Preservation Areas (PPAs) for all counties who have a certified Agricultural Land Preservation Program. To maintain this certification, Charles County must designate Priority Preservation Areas (PPAs) and implement policies, ordinances and procedures that protect, as a goal, 80% of the remaining undeveloped land in the PPAs.

Certification currently allows the County to retain 75% of the agricultural transfer tax revenues for use in land preservation. Without certification, the County would be permitted to retain only 33% of the tax revenue. Loss of certification may also impact State funding received through other programs, such as the Rural Legacy Program and Program Open Space, as well as the loss of credibility and prestige of the County's land preservation efforts.

An estimate of the project's fiscal impacts to the County includes an estimate of both the direct and indirect impacts of losing certification, as well as the additional funding the County would have to provide to meet the PPA land preservation goals.

ESTIMATED DIRECT IMPACT OF LOSING CERTIFICATION:

1. Loss of Agricultural Transfer Tax revenue and its associated State match:
ESTIMATED ANNUALIZED DIRECT LOSS \$750,000

ESTIMATED INDIRECT IMPACT OF LOSING CERTIFICATION

All, or a portion of the funding sources listed below COULD be in jeopardy if the County loses certification and doesn't adopt Priority Preservation Areas and policies to stabilize the land base.

<u>Program</u>	<u>Estimated Average Annual Funding</u>
1. Rural Legacy Program (grants awarded)	\$1,290,443
2. Maryland Agricultural Land Preservation Foundation	\$1,538,337
3. Program Open Space	<u>\$1,380,000</u>
TOTAL	\$4,208,780

ESTIMATE OF COUNTY COST TO ACHIEVE PPA LAND PRESERVATION GOAL

The following is an estimate of the County's annual cost to protect the 45,000 acres of the remaining unprotected land in the PPA, to meet the preservation goal. The County's portion is estimated at 20% of the total funding needed to meet the goal.

Number of Acres left to protect	45,000 acres
Approx cost per acre	<u>\$7,000</u>
TOTAL COST	\$315,000,000
 County's portion (20%)	 \$63,000,000
Annual investment (*based on a 40 year timeframe)	\$1,575,000
Additional annual CIP funding needed	\$1,275,000

*The 40 year timeframe assumes that policies, ordinances and procedures would be in place within the PPA to stabilize the agricultural and forest land base so that development does not convert or compromise the land base.

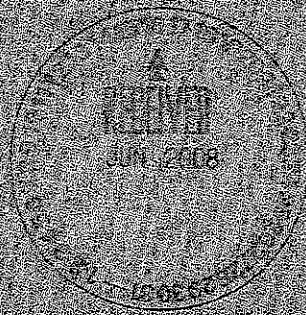


Martin O'Malley, Governor
 Anthony G. Brown, Lt. Governor
 John R. Griffin, Secretary
 Eric Schwaab, Deputy Secretary

June 6, 2008

The Honorable Wayne Cooper, President
 Charles County Board of County Commissioners
 200 Baltimore Street
 P.O. Box 2150
 La Plata, Maryland 20646

Dear Commissioner Cooper:



On behalf of the Rural Legacy Board members, I want to thank you for your commitment to protect Maryland's scenic rural landscapes. The Board of Public Works, at its meeting on April 2, 2008, approved a grant of \$500,000 in Rural Legacy Program Fiscal Year 2008 funds for the Zekiah Watershed Rural Legacy Area. This grant award supports our partnership to conserve natural resources and open spaces essential to the protection of the Chesapeake Bay and its tributaries.

In order to evaluate the many proposals for funding, an objective review of all applications was undertaken. To determine the maximum return for the State's investment, proposals were evaluated based upon the ecological and natural resource values, the ability of the sponsor to administer the program, and land use practices. This review provided an objective methodology by which applications were compared.

In determining the funding level for this grant, the Board felt that the award amount is a reflection of their concerns regarding the ability of the county land use tools to protect the State's investment in land preservation in the Rural Legacy Area. The county's agricultural zoning density is a highly unprotective one unit per three acres. Charles County did down zone much of the development district to 1:10, in order to channel development into other parts of its development district, but this change has forced even more development into rural areas.

Only nineteen percent (19%) of this Rural Legacy Area has been preserved, which is lower than all but four of twenty-nine RLAs, and protection of eighty percent (80%) of the Area at today's easement prices would cost over \$113 million. As with much of Southern Maryland, farmers are getting older and little has been found to produce the income that tobacco did; therefore, land in the county is ripe to be sold for development. As a result, the Board will be reluctant to award future funds in the area unless the county can protect conservation investment by improving its land use tools and can demonstrate that they are limiting development in the Zekiah Rural Legacy Area so that easement programs have time to achieve their goals.

The Honorable Wayne Cooper

June 6, 2008

Page 2

If you have any questions or need additional information, please do not hesitate to contact me or have a member of your staff contact Shaun Fenlon, Director, Land Acquisition and Planning at 410-260-8450. We look forward to working with you to protect the most critical resources in the Zekiah Watershed Rural Legacy Area.

Sincerely,



John R. Griffin
Secretary

cc: Roger Richardson, Secretary, Maryland Department of Agriculture
Richard Hall, Secretary, Maryland Department of Planning
The Honorable Thomas McLean Middleton
The Honorable Sally Jameson
The Honorable Murray D. Levy
The Honorable Peter Murphy
Mr. Charles Rice, Charles County Environmental Programs Manager
Mr. Bruce W. Fleming, Chairman, Rural Legacy Advisory Committee
Mr. Shaun Fenlon, Director, Land Acquisition and Planning

TOTAL RURAL LEGACY PROGRAM FY 2008 GRANT FUNDS - \$21,950,770

County	Rural Legacy Area	FY 2008 Grant Award
Anne Arundel County	Anne Arundel South	\$833,590
Baltimore County	Gunpowder	\$750,000
	Manor *	\$750,000
	Piney Run	\$1,600,000
Calvert County	Calvert Creeks	\$750,000
	North Calvert	\$833,590
Caroline, Cecil, Dorchester, Kent, Talbot Counties	Agricultural Security Corridor	\$2,100,000
Carroll County	Little Pipe Creek	\$750,000
Charles County	Zekiah Watershed	\$500,000
Dorchester County	Nanticoke	\$1,600,000
Frederick County	Mid-Maryland Frederick	\$750,000
Garrett County	Bear Creek	\$1,600,000
Harford	Lower Deer Creek	\$1,600,000
Prince George's	Patuxent Prince George's	\$750,000
Queen Anne's County	Foreman Branch	\$1,933,590
	Lands End	\$750,000
Somerset County	Dividing Creek (N) **	\$1,600,000
St. Mary's County	Mattapani	\$500,000
Washington County	Mid-Maryland Washington	\$750,000
Wicomico County	Quantico Creek	\$500,000
Worcester County	Coastal Bays	\$750,000

N = New Rural Legacy Area

* Manor RLA includes property in Baltimore and Harford counties.

** Dividing Creek RLA includes property in Somerset and Worcester counties.

For additional information, visit <http://www.dnr.maryland.gov/land/rurallegacy/>.

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor



Maryland Department of Planning

Richard Eckhart Hall
Secretary

Matthew J. Power
Deputy Secretary

August 14, 2007

Mr. David A. Umling
Director, Charles County Dept. of Planning and Growth Management
P.O. Box 2150
La Plata, MD 20646



Dear Mr. Umling:

In response to your request, we have reviewed the agricultural land preservation section of Charles County's *Land Preservation, Parks, and Recreation Plan* to assess its ability to serve as the priority preservation area (PPA) element of Charles County's Comprehensive Plan. We have encouraged Counties to work with us as they prepare their PPA elements, and we are glad you are.

Please keep in mind that the agricultural section of the *LPPRP* cannot substitute for the priority preservation area element of the comprehensive plan, which must specifically address the requirements of HB 2. However, much of the information is transferable, which we assume is what you meant when you asked us if the information in the *LPPRP* would comply with the new law.

We have reviewed the draft by using our certification application checklist (attached), which mirrors the program requirements that are contained in the draft regulations for the program. The main point to remember is that the PPA element and certification application are not exercises in meeting reporting requirements but an effort to create a PPA where the land base is stabilized by subdivision and development controls commensurate with development pressure. As a result, easement programs will have time to achieve State and local goals before development compromises the resource-land base.

As to the checklist itself, when items are marked TBD, it signifies that the degree to which the proposed PPA or comprehensive plan element meets the requirement is "to be determined." This will require additional information and analysis. Items we marked as "N/A" were not necessary at this time; items with "NO" in the blank indicate where required information was not included.

As you can see from the checklist, much of the draft element falls into this category. Given the early stage of the process, this is not a problem. However, it is crucial that the final application for certification provide the missing information and, more importantly, address our general concerns about the County's program.

PPA Components Missing

- Judging by the checklist, there are omissions scattered throughout the checklist. Many of these deal with County policies and regulations that restrict or interfere with agricultural activities, or that minimize the interference of non-agricultural activities with agriculture.
- We took the liberty of addressing two missing items.

First is Checklist item IV.F.2, which asks for "the numbers and locations of residential parcels and acres subdivided and developed within the priority preservation area during a recent period of years." We provided a chart (page 8 of the Checklist) showing the acreage

Mr. David Umling
August 14, 2007
Page 2

subject to agricultural land transfer tax for each year from 1990 through 2006 for the County as a whole. This land is definitely converting from agriculture to development. The chart shows that the acreage converted in Charles County is well above the State average during those 17 years; furthermore, the trend is upward.

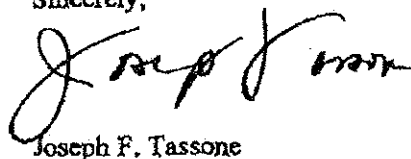
Second, we provided information for Checklist part IV.A.3: the ability of the County's land use tools to "provide time for easement acquisition to achieve State and local preservation goals before they are compromised by development." We said that "experience elsewhere demonstrates that 1:3 rural zoning, in the face of development pressure, cannot stabilize the land base long enough for easement acquisition to work."

Indeed, our largest concern is not about satisfying formal reporting requirements, but about the County's ability to achieve its goals in the PPA. The County itself, in its thorough evaluation of its program, recognizes the precarious state of agriculture since the tobacco buyout and the threat to farmland in the face of liberal zoning combined with heavy development pressure. (We have included much of this information in Part IV of the Checklist.) The LPPRP provided excellent recommendations from the Rural Commission—such as 1:20 zoning with TDRs to be allocated at the rate of 1:3—but does not seem to endorse them all. The LPPRP says that downzoning, even to just 1:10, should be considered only if "incentive-based programs are not working." Given the low level of easement funding, which the County estimates will take 60 years to reach its preservation acreage goal, one can legitimately conclude that the current programs are not working.

The enclosed MDP map of Charles County, which includes the proposed PPA boundaries, represents all the developed parcels in County as colored dot. We have used yellow dots to show residential development in the eight years prior to the start of Maryland's Smart Growth policies and red dots to show development since. As the number and distribution of dots shows, it is still possible to protect large contiguous areas of land within the proposed PPA. However, the preservation of 80% of the unprotected land will be difficult, given current levels of easement acquisition and development. More important, the certification application needs to show that the County's goals for agriculture, beyond the acreage goal, can be achieved by preservation of the PPA. The existing goals, as listed in the LPPRP, apply to the County as whole, not just the proposed PPA. We think that the wide-ranging recommendations of the Rural Commission would improve the prospects for success in the proposed PPA, and we hope that the final certification application will endorse their implementation rather than keep them in reserve.

We look forward to working with you further as the PPA process moves forward and your application for certification under the new regulations takes shape. Please do not hesitate to call me at 410-767-4547, or Daniel Rosen at 410-767-4577 if you have questions or would like further assistance. We would be glad to come to Charles County and work with you and your staff.

Sincerely,



Joseph F. Tassone

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PAGE 04

Mr. David Umling
August 14, 2007
Page 3

P.S. We should note that all of the data relating to individual properties in the County's preserved land inventory was not included in the LPPRP (Checklist Part VI). This is not a problem, since such information was not required for the LPPRP or, for that matter, in the PPA element either. However, it is required in the final application for certification, however.

Enclosure: review checklist

Cc: Richard E. Hall, Don Halligan, Daniel Rosen MDP
Charles Rice, Charles County Dept. of Planning and Growth Management

05/07

MARYLAND AGRICULTURAL CERTIFICATION PROGRAM
Checklist for Review of County Applications

County: Charles—Evaluation of DRAFT PPA ELEMENT, August 1, 2007

Program Administrator:

Date:

Part I: **Local Authorization (.05.C(1)).** The application for certification has been approved by the county agricultural land preservation advisory board, the county office of planning or county planning commission as designated by the county, and the governing body of the county.

N/A

Part II: **Qualifying expenditures (.05.C(3)) and appropriate use of certification funds (.05.C(4)).**

N/A A. The County has made or intends to make qualifying expenditures of County funds that equal or exceed the estimated additional certification funds that will be available as a result of certification; and

N/A B. The County has used or intends to use 75% of agricultural land transfer tax funds retained through certification to purchase development rights, supplement MALPF or TDR payments, for other direct use of funds to expedite or promote the sale or purchase of development rights as approved by the Foundation and the Department (including installment purchase agreements, preservation of critical farms, next generation farmer acquisition programs), to cover 10% or \$30,000 of administrative costs, and/or for other uses in accordance with Regulation .08.A.

N/A C. The county has used or intends to use its share of MALPF funds remaining at the end of each fiscal year (.07.B) to purchase development rights and/or for bond annuity funds and guaranteeing loans collateralized by development rights (.08.B).

Part III: **Planning Context & Implementation Program for Agricultural Land Preservation (.05.D)**

A. The county has in effect a comprehensive plan, plan addendum, or supporting documents to the plan that:

OK 1. Describe county goals for the preservation of agricultural land and the agricultural industry, and the rationale used to establish those goals (.05.D(1)(a)); and

The objectives for agriculture in Chapter 9 of the 1997 Comprehensive Plan, updated

Charles County Draft PPA Element
August 1, 2007
Page 2

in 2005, are the following (verbatim from LPPRP, page IV-3):

- Support agricultural preservation through a combination of development controls and incentives.
- Limit residential development in agricultural areas of the County using density limitations and clustering techniques.
- Minimize conflicts between agricultural and non-agricultural use, especially residential.
- Support the farmers' right to farm.
- ~~Strengthen~~ participation in and funding for the purchase of development rights through the Maryland Agricultural Land Preservation Foundation.
- Encourage the implementation of Soil Conservation and Water Quality Management Plans on all farms in the County.
- Create economic development programs to diversify the agricultural economy and product offerings, enhance farm product marketing, or, in other ways, assist farmers to maintain an economically viable industry.
- Support marketing programs for the County's diverse agricultural offerings.
- Support a productive forestland base and forest resource industry.

OK

2. Include a Priority Preservation Area (.05.D(1)(b)).

The LPPRP proposes an Agricultural Preservation Target Area that is delineated on an area map and described as running "from the agricultural areas of Allens Fresh northeast to Charlotte Hall and south to include the Cobb Neck area. The area is already somewhat compromised by rural subdivisions, but lies south of the large area of rural subdivision in Hughesville and Bryantown.

"In addition to including high concentrations of agricultural land, the proposed target area also borders the Zekiah Smart Rural Legacy Area and St. Mary's County's agricultural preservation target area, thereby providing a large corridor of significantly protected agricultural and environmental lands" (LPPRP, page IV-20). It appears to comprise the lower portion of the Rural Legacy area, where contains less development than the upper portion, and the rest of the southeastern portion of the County, with Dentville carved out of the middle.

B. The Priority Preservation Area Element [Does the PPA element provide a realistic assessment of goals, implementation program, program evaluation, and program development strategy, as per the regulations cited below?]

OK

1. Establishes appropriate goals for the amount and types of agricultural resource land to be preserved in the priority preservation area (.05.D(5)(a));

The 64,000-acre goal includes managed forests as well as productive farmland.

Charles County Draft PPA Element
August 1, 2007
Page 3

- OK 2. Contains an acreage goal for land to be preserved through easements and other land use management tools within an area equal to at least 80% of the remaining undeveloped land in the area (.05.D(5)(a)(I));
- The acreage goal is 64,000 acres, though that total probably includes easements already acquired outside the recommended PPA. Furthermore, the County should explain why only part of the Rural Commission's recommended preservation areas—Zekiah Swamp Watershed Rural Legacy, Southeastern portions of the County including Cobb Neck, and the "Western Peninsula" including Nanjemoy—was included in the PPA.*
- NO 3. Includes in the goals an amount and geographic distribution of development that the county intends to allow within the priority preservation area, to be compatible with agricultural and forestry activities (.05.D(5)(a)(II));
- OK 4. Includes maps showing the county's priority preservation area (.05.D(5)(b));
- It would be helpful if the target area map on page IV-20 showed the whole County.*
- NO 5. Describes the priority preservation area in the context of the county's growth management plans (.05.D(5)(c));
- OK 6. Includes an evaluation of the county's agricultural land preservation program [in accordance with the guidelines in Part IV of this Checklist, below] (.05.D(5)(d));
- and*
- See below for details.*
- OK 7. Includes a program development strategy the county will follow to overcome shortcomings identified in the evaluation [in accordance with the guidelines in Part V of this Checklist, below] (.05.D(5)(e)).
- See below for details.*
- C. The Priority Preservation Area [Does the PPA stabilize land use, limit subdivision, give easement programs time to work, and protect the ability to conduct normal farming activities]:
- NO 1. Contains productive agricultural and forest soils (.05.D(3)(a)(I));
- TBD 2. Is capable of supporting profitable agricultural and forestry enterprises (.05.D(3)(a)(II));

Charles County Draft PPA Element
August 1, 2007
Page 4

TBD 3. Is governed by local policies that stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources (.05.D(3)(b));

TBD 4. Is large enough to support normal agricultural and forestry activities, as represented in the county's adopted comprehensive plan (.05.D(3)(c));

OK 5. Consists of a single parcel of land, multiple connected parcels of land, or multiple unconnected parcels of land (.05.D(4)(a)); and

The extent of the PPA is described in III.A.2, above.

OK 6. May or may not include Rural Legacy Areas (.05D(4)(b)).

The southern end of the Zekiah Swamp Rural Legacy area is included. [Why isn't more of the RLA included?]

Part IV: Evaluation of the County's agricultural land preservation program (.05.E). Does the program evaluation identify the strengths and shortcomings in the meeting the goals of the PPA, in each of the following areas:

OK A. The ability of the county's zoning and other land use management tools to:
1. Limit the amount and geographic distribution of subdivision and development in accordance with established goals (.05.E(1)(a)(I)). *See supporting information under F.1 below.*

In MDP's estimation, the zoning and other land use management tools cannot limit the amount and distribution of subdivision and development. See IV.A.2, immediately below.

OK 2. Stabilize the land base (.05.E(1)(a)(II)). *See supporting information under F.2 below; and*

Zoning in the AC zone requires a minimum lot size of three acres, though clustering is permitted at a density of 1:3. Much of the development district was rezoned to 1:10 in 2000, the intention being to direct development to other portions of the development district. However, the effect has been to send development to the AC and RC zones.

NO 3. Provide time for easement acquisition to achieve State and local preservation goals before they are compromised by development (.05.E(1)(a)(III)).

Charles County Draft PPA Element
August 1, 2007
Page 5

[The LPPRP does not address this matter, but experience elsewhere demonstrates that 1:3 rural zoning, in the face of development pressure, cannot stabilize the land base long enough for easement acquisition to work.]

The County has had a TDR program since 1992. The TDR sending rate is 1:3 [which provides no incentive for transferring instead of developing], and rural-to-rural transfers are allowed. Such transfers do not increase density in the sending area but replace rights that have been transferred.

- Part B. The ability of combined State, local, and other easement acquisition tools to permanently preserve land in locations and at a rate sufficient to achieve State and local goals before they are compromised by development (.05.E(1)(b)). *See supporting information under F.3 below;*

MALPF, Rural Legacy, MET, and DNR have preserved 13,260 acres of agricultural land. TDRs have preserved 2,244 more, bringing the total to 15,504 acres. [This total does not include natural resource land with no agriculture. MDP figures show over 22,000 acres under easement in Charles County.]

Farmers in the tobacco buyout were required to keep the land in agriculture for ten years. Most of those covenants expire in 2011, and eventually 10,000 acres will be exposed to development potential. Tobacco farms were small and "not conducive to many alternate forms of commercial agriculture" (LPPRP, page IV-1). In addition, 17,932 acres in MALPF districts have not yet been permanently preserved.

The amount of County funds allocated to land preservation has gone up and down (Table IV-3, LPPRP page IV-8), peaking at less than \$400,000 in FY 2006 (according to certification reports.)

- NO C. The degree to which county land use and other ordinances and regulations restrict or otherwise interfere with the conduct of normal agricultural activities in the priority preservation area (.05.E(1)(c)). *See supporting information under F.4 below;*

- NO D. The ability of county zoning, subdivision, and development restrictions to minimize interference with normal agricultural activities that might result from non-agricultural development in the priority preservation area (.05.E(1)(d)). *See supporting information under F.5 below; and*

- OK E. The ability of county and other farming assistance programs to support profitable agriculture and forestry activities in the priority preservation area (.05.E(1)(e)).

More than development threatens the agriculture sector. The agricultural production system in Charles County was built around tobacco, the cultivation of which has virtually ceased. The Census of Agriculture showed that from 1997 to 2002, the

Charles County Draft PPA Element
August 1, 2007
Page 6

acreage of land in farms declined 4,600 to 52,056 acres, and the number of farms fell from 451 to 418. [Please update with data from the 2007 Census of Agriculture, if available.]

The Tri-County Council economic development strategy (from 2003, apparently), lays out the problem succinctly:

[A]ccording to a recent study, the region's heavy dependence on tobacco has left other agricultural sectors poorly developed. Little non-tobacco agricultural infrastructure is currently in place in Southern Maryland. Agricultural innovation and entrepreneurship are severely lacking. Economic indicators show that agriculture in Southern Maryland does worse than in other parts of the State as well as elsewhere in the nation. The lowest net returns per acre are in Southern Maryland, and very little of those returns circulate through the rest of the Southern Maryland economy. With the exception of hay, all agricultural sectors are down and there is no critical mass in any sector. The average age of the tobacco farmer is 62, and many taking the Buyout view it as a part of a retirement package... Farmers say that traditional agricultural forms of assistance have failed them. These factors make it difficult for younger farmers to see a bright future. All of this coupled with statistics that show urban sprawl and land development are occurring faster on Southern Maryland's remaining 244,000 acres of farmland than anywhere else in the State. In short, agriculture and the natural resource base in Southern Maryland are in need of help (quoted in LPPRP, page IV-10).

The regional economic development strategy of 2003 includes the following:

- **Tobacco Buyout Program**—Enrolling farmers between 2001 and 2004, the voluntary Buyout Program pays growers over a ten-year period to refrain from growing tobacco permanently. "The grower also agrees to remain in agriculture for the ten years of the payment. If, during that time, landowners who have taken the Buyout wish to place their land in a County or State farmland protection program, they are paid a 10 percent bonus, based on funding availability" (LPPRP, Page IV-11). [The plan does not say how many buyout participants have sold easements, or how many the County program is targeting.] However, "[f]armers that have participated in the Buyout have little incentive to take economic risk during the Buyout period" (LPPRP, page IV-17).
- **Infrastructure/Agricultural Development Program**—"This program is designed to 'foster profitable natural resource based enterprises...by assisting farmers and related business to diversify and develop and/or expand market-driven agricultural enterprises in the region through economic development and education.' This component calls for 1) targeted marketing programs (e.g., wholesale and retail markets); 2) support for on-farm diversification (e.g., value-added processing, agritourism, and new agribusiness ventures); and 3) providing information (e.g., trade fairs, seminars, workshops) and education (e.g., training in agriculture, leadership, and business management) to facilitate the diversification" (LPPRP, page IV-11).
- **Agricultural Land Preservation**—The Tobacco Buyout Program, if we understand correctly, offers approximately \$336,000 in Charles County every year for 10%

Charles County Draft PPA Element
August 1, 2007
Page 7

bonuses for Buyout participants who sell an easement. The LPPRP does not say how many easements have or will be obtained through this incentive.

County Economic Development—The LPPRP states that "Charles County has no economic development program specifically dedicated to agriculture, forestry, or related industries, however, the College of Southern Maryland does support agricultural business training using the NxLevel "Tilling the Soil of Opportunity" curriculum. The County has recently initiated an Agricultural Revitalization Strategy with the assistance of Dr. James Segedy and Ms Lisa Hollingsworth" (LPPRP, page IV-11). The plan does not detail that strategy.

Not to be overlooked, however, is the importance of managed forests. "Currently, Charles County has the third highest acreage of forest cover in the State of Maryland and supports a vibrant forest products industry" (LPPRP, page IV-3). Largely due to the decline of agriculture, forest cover increased 12% between 1986 and 1999. Non-industrial private landowners controlled 83% of the forest.

- F. The evaluation shall be supported by and include summaries of statistics and other factual information, such as:

OK

1. A description of the amount of subdivision and development allowed on land within zoning districts comprising the priority preservation area, including base density, additional lots allowed for clustering and density transfers between parcels, and any other provisions affecting lot yields on land proposed for subdivision or development (.05.E(2)(a));

The base zoning requires three-acre lots, with clustering allowed at 1:3 (no bonus density). The TDR program allows rural-to-rural transfers at 1:3, with no increase in density on the receiving property.

NO

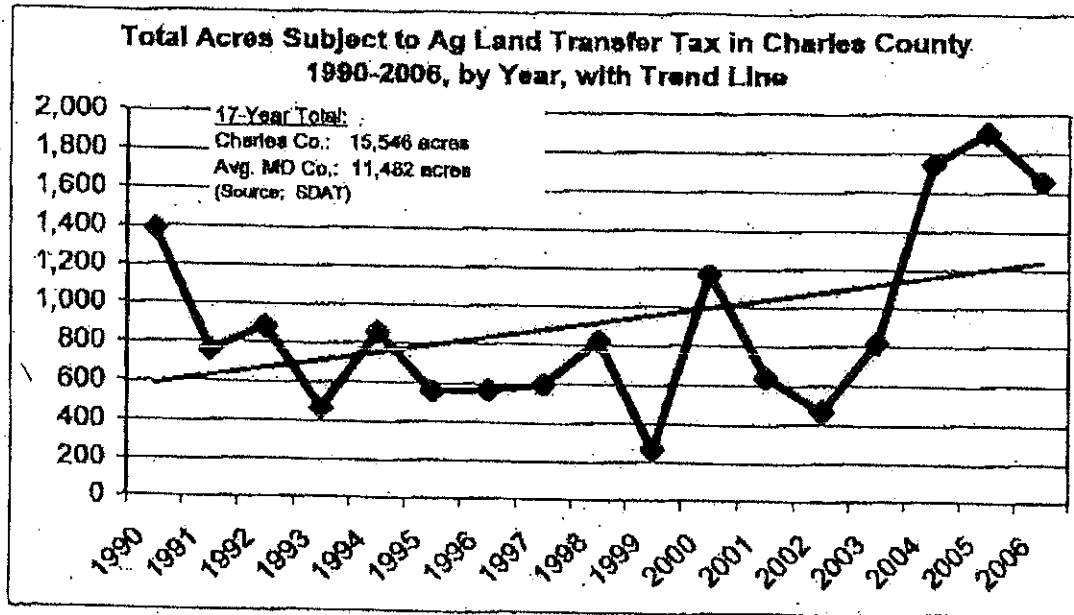
2. The numbers and locations of residential parcels and acres subdivided and developed within the priority preservation area during a recent period of years (.05.E(2)(b));

[The chart below, created by MDP, shows the number of acres subject to agricultural land transfer tax in Charles County for the years 1990-2006. These acres definitely converted to development. As the chart shows, the amount of agricultural acreage converted in the County was much higher than for the "average" Maryland County, and the conversion trend in Charles County is upward.]

** Big Point*

Post-it® Fax Note	7671	Date	6/2/08	# of pages	5
To	CASEY CALLAHAN	From	MARY GRANT		
Co/Dept	ERM	Co	CHARLES		
Phone #	(410) 266-0006	Phone #	(301) 885-0108		
Fax #	(410) 266-8912	Fax #	(301) 645-0638		

Charles County Draft PPA Element
August 1, 2007
Page 8



- Part 3. The total acreage and locations of farms and parcels permanently preserved and recorded as permanent easements in the land records of the county during a recent period of years (.05.E(2)(c));

The draft PPA contained a table showing the agricultural acreage protected by different programs and a map showing agricultural easements, districts, and TDRs. (Easements on natural resource land were not included, except, perhaps, in the Rural Legacy easements shown on the map.)

- NO 4. The constraints and restrictions placed on normal agricultural activities by county ordinances and regulations, such as minimum setbacks from property boundaries (.05.E(2)(d)); and

- NO 5. The constraints and restrictions placed by county ordinances and regulations on non-agricultural development activities, in order to minimize conflicts with normal agricultural activities within the priority preservation area (.05.E(2)(e)).

Part V: Program development strategy (.05.F). The County's application for certification provides a realistic program development strategy to correct weaknesses identified above, a strategy that includes the following:

Charles County Draft PPA Element
August 1, 2007
Page 9

- OK A. A schedule of activities the county will undertake to overcome shortcomings in the ability of county tools identified in the evaluation (.05.F(2)); and

The Rural Commission, created in 2000, presented a number of important recommendations in 2002. They are bulleted below as they appear in the LPPRP. Some have been implemented, as noted below, BUT THE LPPRP DOES NOT EXPLICITLY ENDORSE THEM ALL.

- B. A schedule of milestones according to which the county hopes to overcome the identified shortcomings, including but not limited to changes the county intends to make or pursue in:

- OK 1. The county comprehensive plan, zoning, land use management tools, and related regulations and procedures (.05.F(3)(a));

"The County is currently pursuing zoning changes that would mandate cluster developments in the AC and RC districts with a minimum 65 percent open space requirement" (LPPRP, page IV-8), as recommended by the Rural Commission.

Other findings/recommendations from the Rural Commission:

- *There is no significant difference between the RC and AC zone with new subdivisions of three to six acre lots being approved anywhere that can pass a percolation test.*
- *The northeastern portion of the AC and RC, east of Waldorf, is substantially developing into a suburban area.*
- *Land consumption consumes a disproportionate share of land due to average lots sizes of three to six acres.*
- *Rural subdivisions should be encouraged to use twenty-acre lots.*
- *Developers should be required to cluster in the RC and AC zoning districts with incentives provided for maintaining open space character as well as protecting agricultural and wooded lands [adopted by the County].*
- *Zoning regulations should accommodate the changing nature of agriculture to ensure that they do not impede agricultural growth.*
- *Reducing density in the rural areas does not necessarily reduce the land's value, especially if landowners are compensated with TDRs at the original density.*

Downzoning "failed to receive community or political support and this remains a significant hurdle in both slowing rural growth and encouraging higher participation in the transfer of development rights program" (LPPRP, page IV-14). The LPPRP says that downzoning, such as 1:10 or more in the PPA (with TDRs to be sent at 1:3) is "a tool that should only be considered if other incentive-based programs are not working" (LPPRP, page IV-22).

Between 1997 and 2004, 70% of new lots were directed to the Development District, but the lots in rural areas consumed almost 22,500 acres, or about 73% of all acres in lots.

From the LPPRP (which does not state that these recommendations should be enacted):

The following recommendations from the 2002 Rural Commission's report reflect a clear understanding of this gap in performance of land use management tools in rural Charles County and were the Commission's recommendations to correct their performance:

Martin O'Malley
Governor

Anthony G. Brown
Lt. Governor

MDP
Maryland Department of Planning

Richard E. Hall
Secretary

Matthew Power
Deputy Secretary

October 22, 2009

Mr. Charles Rice
Environmental Review Program Manager
Charles Co. Government, Planning and Growth Management
P. O. Box 2150
La Plata, MD 20646

Re: Certification of Charles County's Agricultural Land Preservation Program

Dear Mr. Rice:

The Maryland Department of Planning and the Maryland Agricultural Land Preservation Foundation would like to thank you for submitting Charles County's application for certification of its agricultural land preservation program under the new program regulations that implement the Agricultural Stewardship Act of 2006 (HB 2). We are pleased to inform you that the County's program has been conditionally certified for two years: retroactively from July 1, 2008 through June 30, 2010. Conditional certification and the reasons for it will be explained below.

The County's preservation program has many praiseworthy accomplishments that include the following:

- For the two years FY 2007 and 2008, the County preserved 4,198 acres while just 1,617 were subject to agricultural land transfer tax.
- The County's TDR program is showing more activity than previously.

The immediate reason for a conditional rather than full certification is the fact that the Priority Preservation Area (PPA) and PPA plan element for the comprehensive plan are currently "conceptual" and have not yet been officially adopted by the County. More substantively, however, we are concerned that the County has not established the means to meet certification criteria and may not be able to achieve State and County preservation goals.

As you know, the new certification criteria require the designation of a PPA in a PPA element of the County's comprehensive plan, and specific conditions that must prevail within the PPA. The PPA must:

1. Contains productive agricultural or forest soils and be capable of supporting profitable agricultural and forestry enterprises;
2. Be governed by local policies, ordinances, regulations, and procedures that stabilize the agricultural and forest land base, support working farms and normal farming activities, and

provide time to achieve State preservation goals before resource land is excessively compromised by development;

3. Be of a size that is appropriate in relation to countywide preservation goals for both the number of acres of agricultural land and the agricultural industry; and
4. Have an established acreage goal for land to be preserved through easements and zoning equal to at least 80% of the remaining undeveloped areas of land in the area.

Our assessment is that the County's application did not describe a PPA that we can determine meets these criteria, possibly because the PPA and PPA plan element are still conceptual. Below is additional information about some of these issues; the graphs mentioned are part of the attached checklist.

Perhaps of greatest concern is our assessment that Charles County does not have local policies, ordinances, regulations, and procedures in place to stabilize the agricultural and forest land base and provide time to achieve State preservation goals before resource land is excessively compromised by development.

The County application sites "lack of protective rural zoning" as a program weakness, a conclusion we have reached independently. Zoning in the AC zone requires a minimum lot size of three acres, and clustering is permitted at a density of 1:3. The deferred development district was rezoned to 1:10 in 2000, the intention being to direct development to other portions of the development district. However, the effect has been to send development to the AC and RC zones.

As shown on the accompanying graph, in the "average" Maryland County, the number of acres of agricultural land converted—i.e., subject to the agricultural land transfer tax—for the 19 years 1990-2008 was 12,279 acres. In Charles County, the total was 17,162 acres—almost 40% higher. This figure is high for a rural county. Only five counties lost more farmland: Montgomery, Prince George's, Carroll, Frederick, and Cecil.

Graphs in the attached checklist indicate that the County's agricultural land is more fragmented by residential subdivision than the majority of counties (graph entitled "Fragmentation Due to Residential Subdivision") and that rural land use is less stable than in the majority of counties ("Assessment of Land Use Stability").

County data for the three years 2006-2008 indicated that 922 lots (42%) were approved in rural areas, compared to 1,280 (58%) in the Development District. These figures translate to 3,879 acres developed in rural areas (4.2 acres per lot) and 750 acres in the Development District (.59 acres per lot). The County's most recent *Land Preservation, Parks, and Recreation Plan* reports that between 1997 and 2004, 70% of new lots were directed to the Development District, but lots in rural areas consumed almost 22,500 acres, or about 73% of all residential acres developed.

Overall, the County has about 27,000 acres under easement—more than 11 other Counties. When publicly owned lands are added, Charles County has preserved over 46,500 acres preserved—more than 8 Counties. The converted-to-developed land ratio is .92, below the State average of 1.08—better than just 7 Counties, even though Charles is a rural county. The County budget included \$300,000 for land preservation in FY 2009.

The application does not say how big the County's PPA will be, or discuss how designation relates to Countywide goals for agricultural land and the farming and forest industries, although it does provide a map of three "Proposed Draft Priority Preservation Areas." The application does not say how much acreage has been preserved in the proposed PPA, and what the preservation goal will be. The Countywide goal is 64,000 acres, but its relation to the PPA is not clear. We understand that the information to answer this question will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted shortly.

In summary, the PPA as proposed in the application will not meet new recertification requirements unless the County implements many of the improvements listed in their program development strategy by June 30, 2010, at a level that provides time to achieve State and local preservation goals before resource land is excessively compromised by development. We specifically reference the following from your strategy:

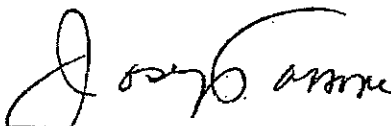
- Improve the agricultural land preservation tool kit.
- Increase Program funding and support.
- Develop supportive agricultural zoning to protect prime agricultural areas from encroachment.
- Improve the economics of the TDR program.
- Increase use of structured economic development tools to enhance agricultural transition.
- Increase landowner participation in programs.

The three underlined items are most important. We know through experience that—other things being equal—zoning that allows more than one unit per 25 acres cannot protect the land base for a full range of agricultural operations in the face of development pressure such as Charles County is likely to continue to experience. If Charles County cannot enact protective zoning, it must demonstrate how its other tools will stabilize the land base.

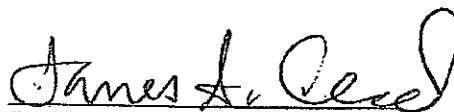
Please advise us prior to June 30, 2010, of the status and prognosis of efforts to meet certification requirements by that date. We are prepared to work closely with you and local officials to that end.

We appreciate the hard work you have put into the County's farmland preservation program and your willingness to receive our input during the certification process. We look forward to working with you in the future. Please call one of us or Daniel Rosen at the Department of Planning if you have questions about anything in this letter.

Sincerely,



Joseph F. Tassone, Coordinator
Agricultural Certification Program



James A. Conrad, Exec. Director
Maryland Agricultural Land
Preservation Foundation

Charles County Certification
October 22, 2009
Page 4

Enclosure: review checklist.

Cc (letter only):

Hon. Wayne Cooper, President, Charles County Commissioners
Mr. Richard E. Hall, Secretary, Maryland Department of Planning
Mr. Earl "Buddy" Hance, Secretary, Maryland Department of Agriculture
Mr. Melvin Beall, Charles County Director of Planning and Growth Management
Mr. Samuel F. Swann, III, Chairman, Charles Co. Agricultural Land Preservation
Advisory Board

MARYLAND AGRICULTURAL CERTIFICATION PROGRAM
Checklist for Review of County Applications

County: CHARLES

Program Administrator: Charles Rice

Date: December 26, 2008; reviewed February 1-12

Part I: **Local Authorization (.05.A).** The application for certification has been approved by the county agricultural land preservation advisory board, the county office of planning or county planning commission as designated by the county, and the governing body of the county.

Part II: **Qualifying expenditures (.05.D) and appropriate use of certification funds (.09.C).**

Part A. The County has made or intends to make qualifying expenditures of County funds that equal or exceed the estimated additional certification funds that will be available as a result of certification; and

The chart below shows that "other County funds" are more than meeting the matching requirements.

Fiscal Year	BaseMENTS	Incentives	Administration	Tax Credits
2006	\$335,036	\$24,438	\$14,915	\$23,958
2007	\$647,185	\$63,304	\$43,411	\$32,306
2008	\$442,858	\$63,304	\$76,279	\$38,279
TOTAL	\$1,425,079	\$151,046	\$134,605	\$94,543

OK B. The County has used or intends to use 75% of agricultural land transfer tax funds retained through certification to purchase development rights, supplement MALPF or TDR payments, for other direct use of funds to expedite or promote the sale or purchase of development rights as approved by the Foundation and the Department (including installment purchase agreements, preservation of critical farms, next generation farmer acquisition programs), to cover 10% or \$30,000 of administrative costs, and/or for other uses in accordance with Regulation .09.C.

Fiscal Year	Total Ag Transfer Tax Collected	Amount Remitted to State	Net Ag Transfer Tax Retained
2006	\$1,008,169	\$366,458	\$ 641,711
2007	\$1,238,910	\$751,209	\$487,701
2008	\$179,773	\$44,943	\$134,830
TOTAL	\$2,426,852	\$1,162,610	\$1,264,242

(FY 2007 includes \$588,642 on wooded parcels that was entirely remitted to the State.)

Expenditures for easements from the agricultural land transfer tax funds are as follows:

Fiscal Year	Easement Purchases	Administrative Expenses
2006		\$64,171
2007	\$719,770	\$48,770
2008	\$385,761	\$30,000
TOTAL	\$1,105,531	\$142,941

The annual balance sheets were signed by Clifton Gunderson, LLP (Certified Public Accountants & Consultants).

OK

- C. The county has used or intends to use its share of MALPF funds remaining at the end of each fiscal year (.09.A, referring to Agriculture Article §2-508.1) to purchase development rights and/or for bond annuity funds and guaranteeing loans collateralized by development rights (.09.C.1, referring to Agriculture Article §2-508.1).

Part III:

The Priority Preservation Area Plan Element (.05.H, .06) [Does the PPA element provide a realistic assessment of goals, implementation program, program evaluation, and program development strategy, as per the regulations cited below?]

Part

- A. The county's local plan includes a priority preservation area element that identifies and delineates a priority preservation area (.05.H(1));

[The PPA and PPA plan element are currently "conceptual" and not fully refined or approved. The County is working with its consultant, Environmental Resources Management (ERM). "Once drafted, the PPA area will be incorporated into an updated sensitive areas element for the County Comprehensive Plan" (application section II, page 19).]

The application provides a map of three "Proposed Draft Priority Preservation Areas." "Priority Area #1 (Forestry focus)" contains most of the southwest County, centered around Nanjemoy and extending almost to the southwestern border of the development district. "Priority Area #3 (Rural Legacy Area-agriculture and forestry)" contains the Zekiah Watershed Rural Legacy area. "Priority Area #2 (Agriculture Focus)" attaches to the southern end of the Rural Legacy area and contains most of the southeastern portion of the County.

- B. The Priority Preservation Area Plan Element

1. Establishes appropriate goals for the amount and types of agricultural resource land to be preserved in the priority preservation area and the rational used to establish the goals, including a county acreage goal to protect at least 80% of

the remaining undeveloped land in the priority preservation area, as calculated at the time the application is submitted (.05.H(2));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

[The County has a preservation goal of 64,000 acres, but it's not clear what the goal is for the PPAs.]

2. Describes the county's strategy to support normal agricultural and forestry activities in conjunction with the amount of development permitted in the priority preservation area (.5.H(3));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

- OK 3. Includes maps showing the county's priority preservation area (.05.H(4));

4. Describes the priority preservation area in the context of the county's growth management plans (.05.H(5));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009. The certification application provides the following information about the County's plans.]

"Charles County's Comprehensive Plan, updated in 2006, sets specific goals aimed at protecting the land resources necessary to support the County's agricultural industry and enhance its rural character. To achieve this goal, while balancing the resource and commodity values of the land, the following objectives were established:

- *Support agricultural preservation through a combination of development controls and incentives.*
- *Limit residential development in agricultural areas of the County using density limitations and clustering techniques.*
- *Minimize conflicts between agricultural and non-agricultural use, especially residential.*
- *Support the farmers' right to farm.*
- *Strengthen participation in and funding for the purchase of development rights through the Maryland Agricultural Land Preservation Foundation.*
- *Encourage the implementation of Soil Conservation and Water Quality Management Plans on all farms in the County.*
- *Create economic development programs to diversify the agricultural economy and product offerings, enhance farm product marketing, or, in other ways, assist farmers to maintain an economically viable industry.*
- *Support marketing programs for the County's diverse agricultural offerings.*
- *Support a productive forestland base and forest resource industry." (Application section II, page 11.)*

Actions to implement these objectives include the following (from pages 11 and 12):

- *Coordination between forestry / agricultural preservation policies and "overall land preservation and recreation policy" (page 11). Support a productive forestland base and forest resource industry."*
- *Transition from tobacco, in part by supporting the Agricultural Development Commission of the Tri-County Council for Southern Maryland. This Commission grew out of the tobacco buy-out program in the late 1990's. "The goal of the commission is to promote diverse, market-driven agricultural enterprises, which when coupled with agricultural land preservation, will preserve Southern Maryland's environmental resources and rural character while keeping the region's farmland productive and the agricultural economy vibrant.... The Commission provides a host of services, including an agriculture viability grant program, giving grants to farmers who are in transition to new agricultural enterprises, a marketing program for Southern Maryland products "Southern Maryland So Good" and many other outreach and education programs" (page 14).*
- *TDRs.*
- *County financial support for easements.*
- *Agricultural marketing. Currently the effort is regional, but if that effort folds, the County should reactivate a local program that ceased in 1992.*
- *Support for agricultural training programs in high schools and the College of Southern Maryland, plus the 4-H Club and similar organizations.*
- *Review of regulations that affect processing, roadside stands, corn mazes, bed and breakfasts, etc. "Regulations should be reviewed to ensure they are not a barrier to such activities, while retaining (for adjacent and nearby property owners) the normal protections afforded by zoning with respect to noise, traffic, and nuisances."*
- *Zoning text amendment for agricultural shared access easements to make it easier to provide access to family lots on farms enrolled in a protection program. Lots are allowed at the rate of 1:50 to immediate family working on the farm. This measure was adopted on July 9, 2008.*

5. Describes the way in which preservation goals will be accomplished in the priority preservation area, including the county's strategy to protect land from development through zoning, preserve the desired amount of land with permanent easement, and maintain a rural environment capable of supporting normal agricultural and forestry activities (.05.H(6));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

6. Includes an evaluation of the ability of the county's zoning and other land use management practices to limit the impact of subdivision and development, allow time for easement purchase, and achieve the Foundation's goals before development excessively compromises the agricultural and forest resource land (.05.H(7));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009. Other

than citing the lack of protective zoning as a weakness, the application does not go into detail, except to say that there is a "lack of community and political support for down-zoning in the rural area..." The County's LPPRP contained the following (quoted verbatim):

The following recommendations from the 2002 Rural Commission's report reflect a clear understanding of this gap in performance of land use management tools in rural Charles County and were the [Rural] Commission's [2002] recommendations to correct their performance:

- *Combine the current Agriculture Conservation (AC) and Rural Conservation (RC) zones.*
- *Rezone the development district to reduce "by-right density" so every lot requires a TDR, with the ability to increase density at one TDR per unit. In addition, require the use of TDRs in the current AC and RC zones for every new housing unit.*
- *The Western Peninsula of Nanjemoy should rezone to one dwelling unit per 20 acres.*
- *Development rights on land rezoned to one dwelling unit per 20 acres should maintain TDRs at one dwelling unit per three acres for the purposes of transferring them.]*

7. Identifies shortcomings in the abilities of the county's zoning and land management practices and identifies current or future actions to correct the shortcomings (.05.H(8));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

8. Describes the methods the county will use to concentrate preservation funds and other supporting efforts in the priority preservation area to achieve the goals of the Foundation and the county's acreage preservation goal (.05.H(9)); and

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009. The County's LPPRP, however, says that it will take over 60 years to achieve the agricultural protection goal of 64,000 acres.]

9. Incorporates by reference or inclusion the county's agricultural land preservation program evaluation and program development strategy (.05.H(10)).

NO

- C. The local plan, plan implementation tools, and program development strategy are likely to be successful in controlling development and providing time to achieve State and county goals through easement acquisition in the priority preservation area before the area is excessively compromised by development (.06.D).

See Section V for MDP's evaluation.

Part IV: **The Priority Preservation Area (.05.H)** [Does the PPA stabilize land use, limit subdivision, give easement programs time to work, and protect the ability to conduct normal farming activities]:

- _____ 1. Is large enough to support normal agricultural and forestry activities in conjunction with the amount of development permitted by the county in the priority preservation area under its local plan (.05.H(1)(a));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

- _____ 2. Contains productive agricultural or forest soils (or, where productive soils are lacking, is capable of supporting profitable agricultural and forestry enterprises (.05.H(1)(b)));

[This information will be provided in the final sensitive areas element of the comprehensive plan, which is scheduled to be adopted in October 2009.]

- OK 3. Is governed by local policies, ordinances, regulations, and procedures that:
a. stabilize the agricultural and forest land base so that development does not convert or compromise agricultural or forest resources (.05.H(1)(c)(i)); and

See V.F below for details.

- OK b. support the ability of working farms in the priority preservation area to engage in normal agricultural activities (.05.H(1)(c)(ii)).

The County offers the following supports:

- *Right to farm ordinance (August 2000).*
- *County tax credits of 100% on all land and agricultural structures on MALPF districts or easements. Credits on easements and districts in 2998 totaled \$128,778.*

- NO 4. Has been submitted to and certified by the Department and the Foundation under Regulation .06 (.05.H(1)(d));

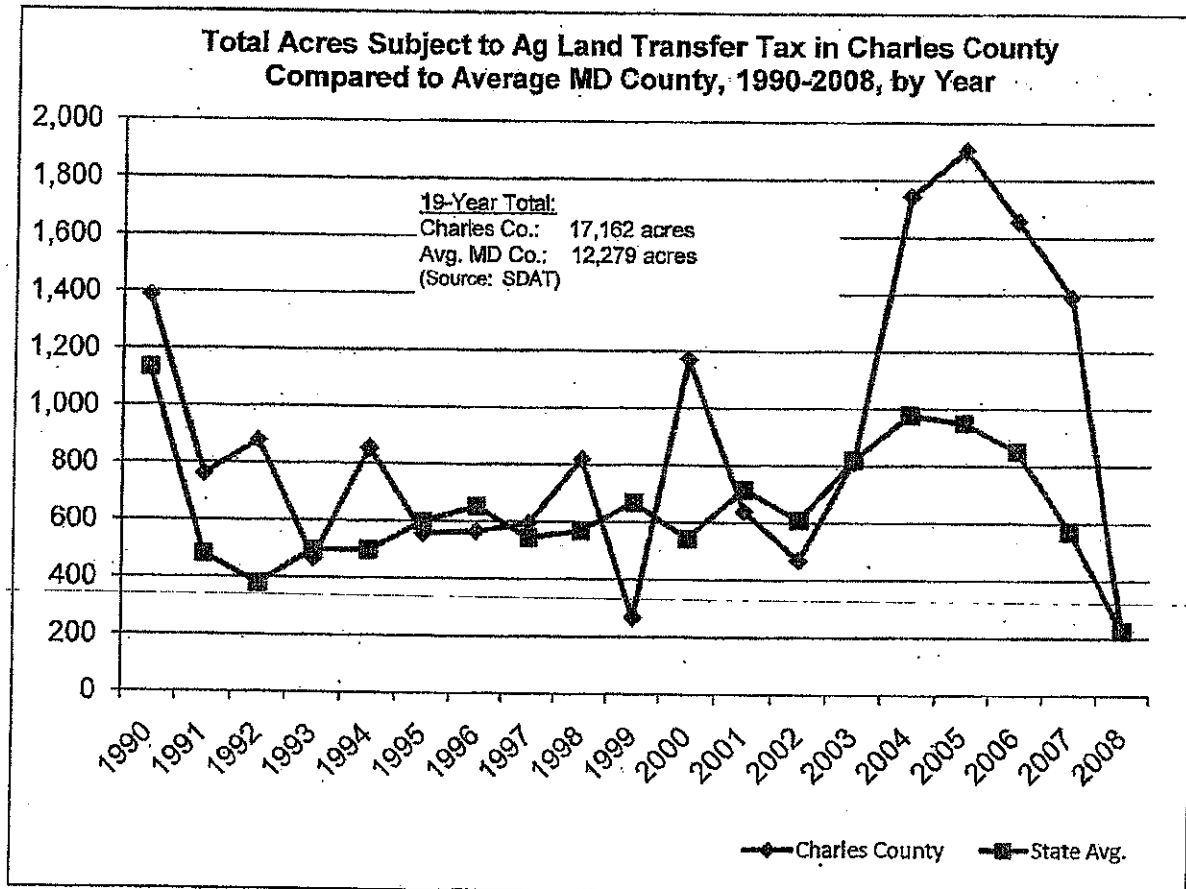
Part V: **Evaluation of the County's agricultural land preservation program (.05.E).**
Does the program evaluation identify the strengths and shortcomings in the meeting

- NO A. The ability of the county's zoning and other land use management tools to:
1. Limit the amount and geographic distribution of subdivision and development in accordance with established agricultural land preservation goals (.05.E(1)(a)(i)). *See supporting information under F.I below.*

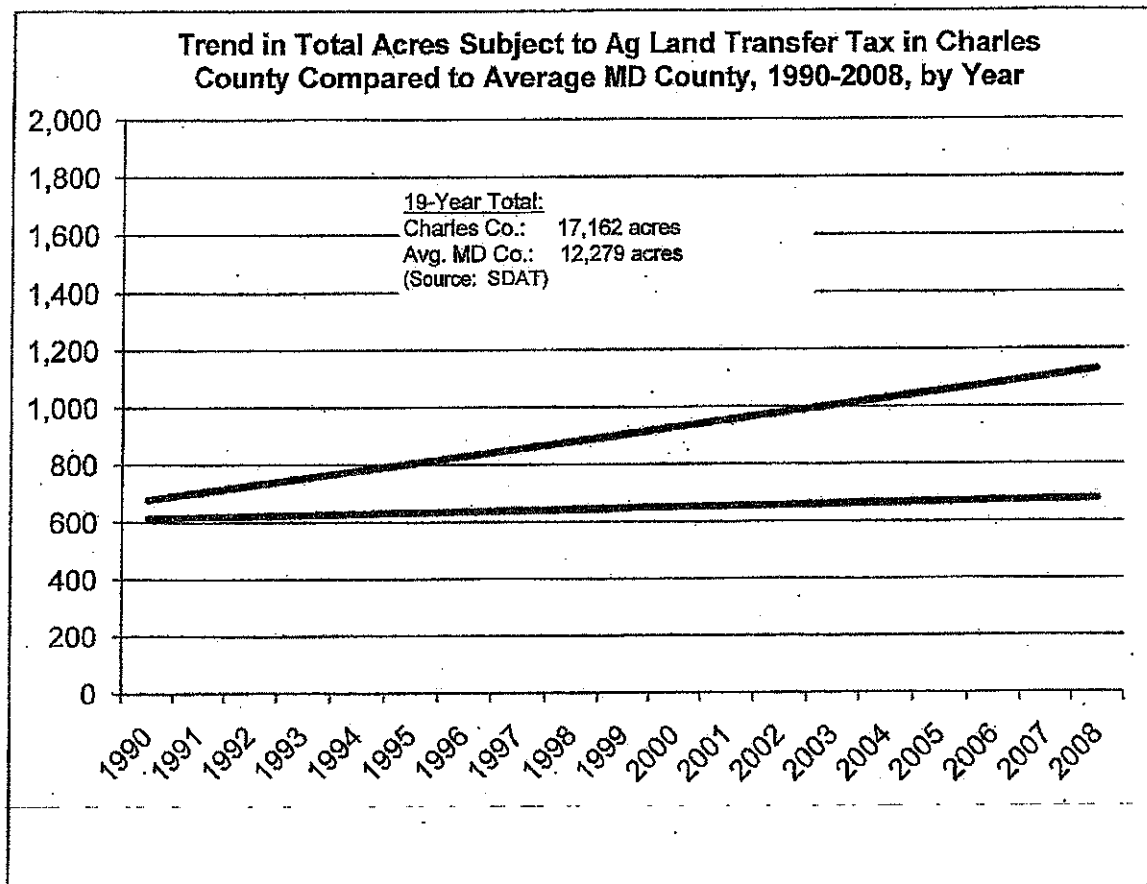
The applications sites "lack of protective rural zoning" as a program weakness. [No details are provided, but MDP's review of a draft PPA element stated the following: "Zoning in the AC zone requires a minimum lot size of three acres,

though clustering is permitted at a density of 1:3. Much of the development district was rezoned to 1:10 in 2000, the intention being to direct development to other portions of the development district. However, the effect has been to send development to the AC and RC zones.”]

The chart below shows the number of acres of agricultural land converted—i.e., subject to the agricultural land transfer tax—for the 19 years 1990-2008. The “average” Maryland County lost 12,279 acres during that period, while Charles County’s total was 17,162 acres—almost 40% higher. This figure is high for a rural county. Only five counties lost more farmland than that: Montgomery, Prince George’s, Carroll, Frederick, and Cecil.

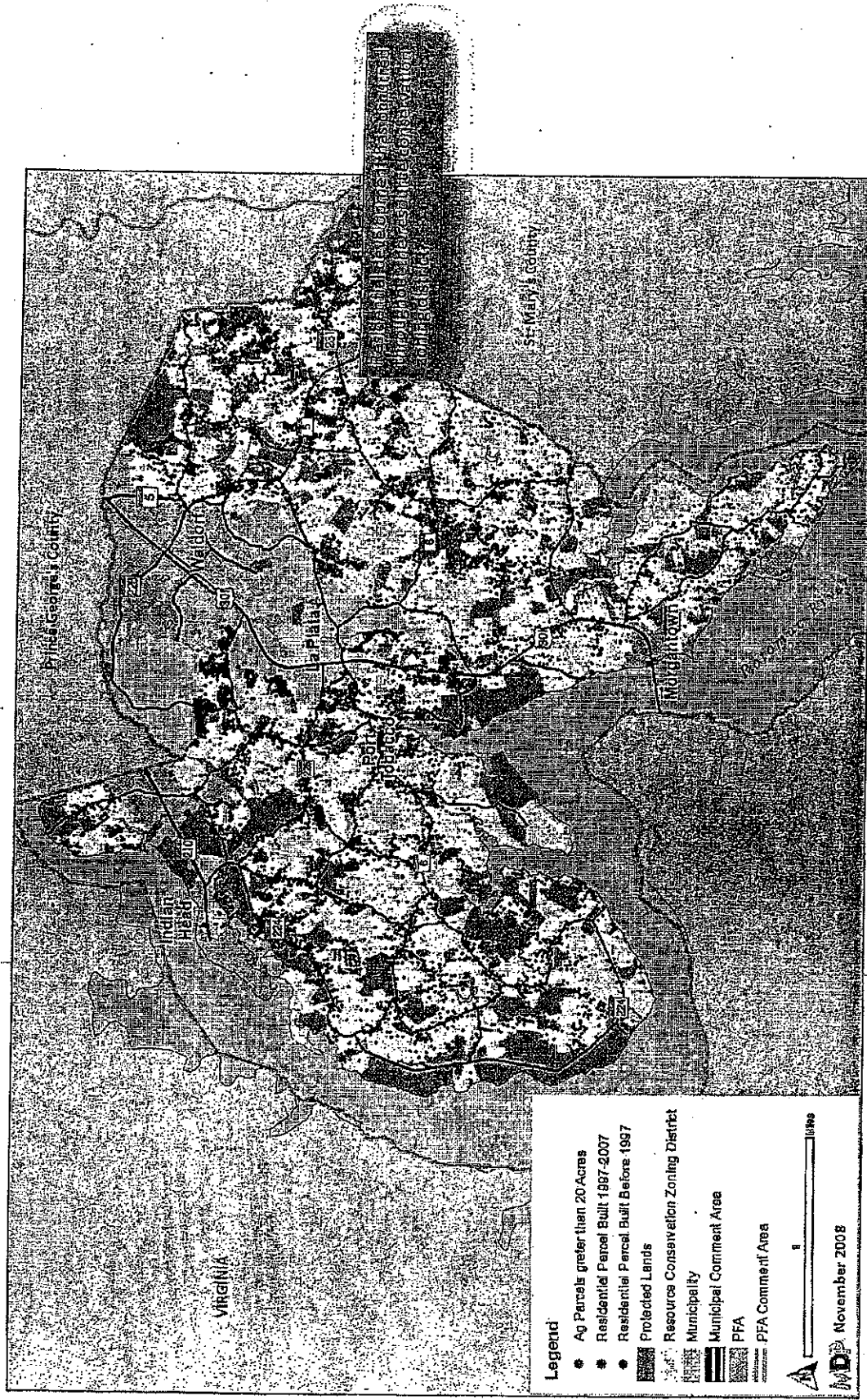


The trend lines for the land conversion data, below, show that the number of agricultural acres converted in Charles County has been rising steadily over time compared to the "average" Maryland county.



The map below shows developed parcels outside growth areas as dots. Development before 1997 is shown as black dots. Development from 1997 through 2007—the Smart Growth era—is represented by the red dots. The map shows that A.) extensive development took place on rural land, outside areas targeted for growth, for the 1997-2007 period; and B.) the amount of rural development in that decade surpassed all the rural development that had occurred previously since the settlement of Charles County.

Charles County: Development in Resource Conservation Zone



The following graph and map show the measure of fragmentation due to residential subdivision and development. The analysis is based on an analysis that MDP did on all resource land in the State: "Resource land" consists of the following:

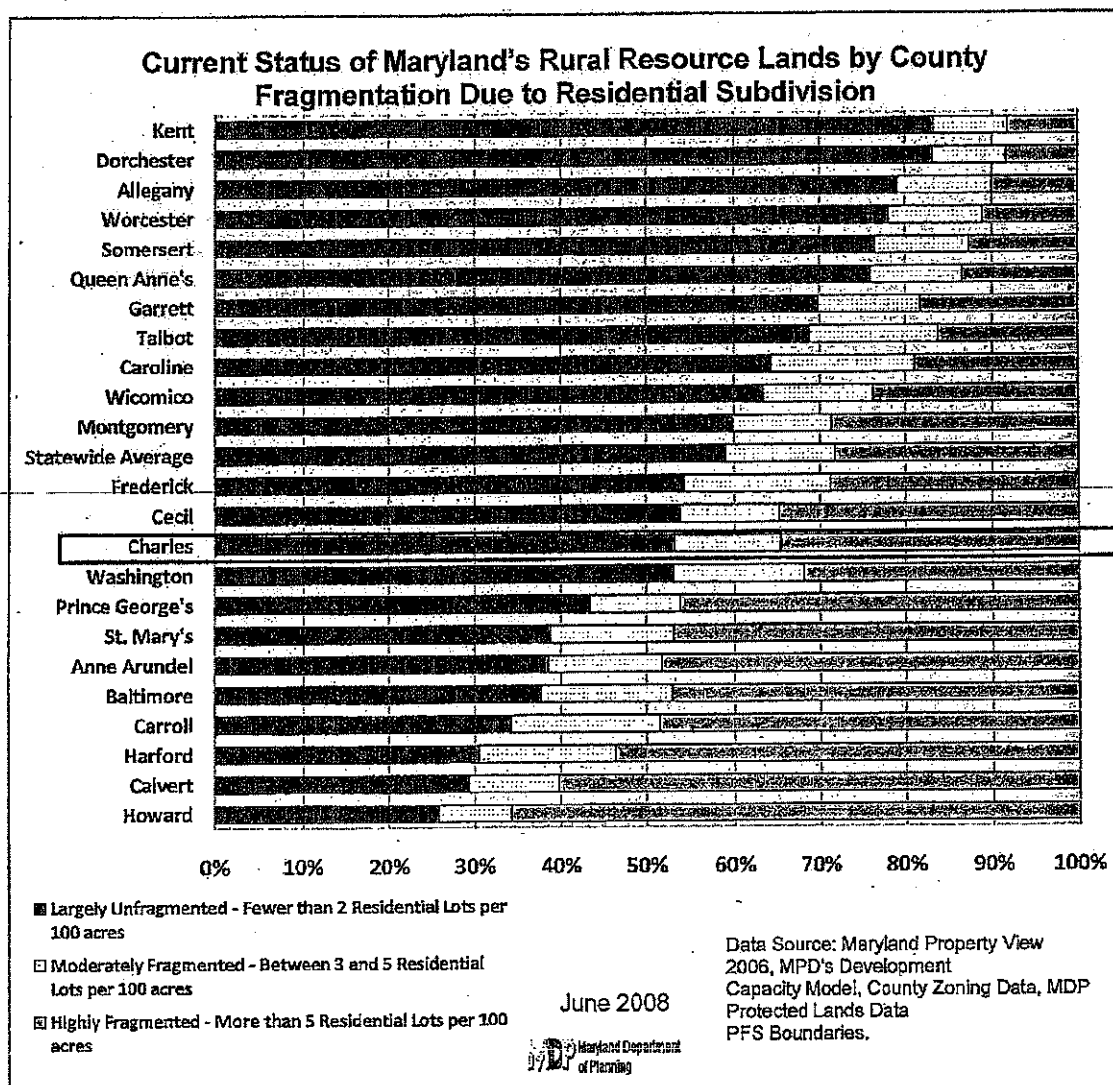
1. Land that DNR identified as containing Green Infrastructure, Rare Species Habitats, Aquatic Life Hot Spots, and Forests Important for Water Quality Protection; and
2. Lands that each county has designated for resource conservation and/or agricultural preservation in its zoning.

These lands were covered with a grid of 100-acre cells, and the number of residential parcels (improved or un-improved) tallied per each 100 acres. Each cell was then assigned a value as stipulated:

Highly Fragmented – More than 5 Residential Lots per 100 Acres

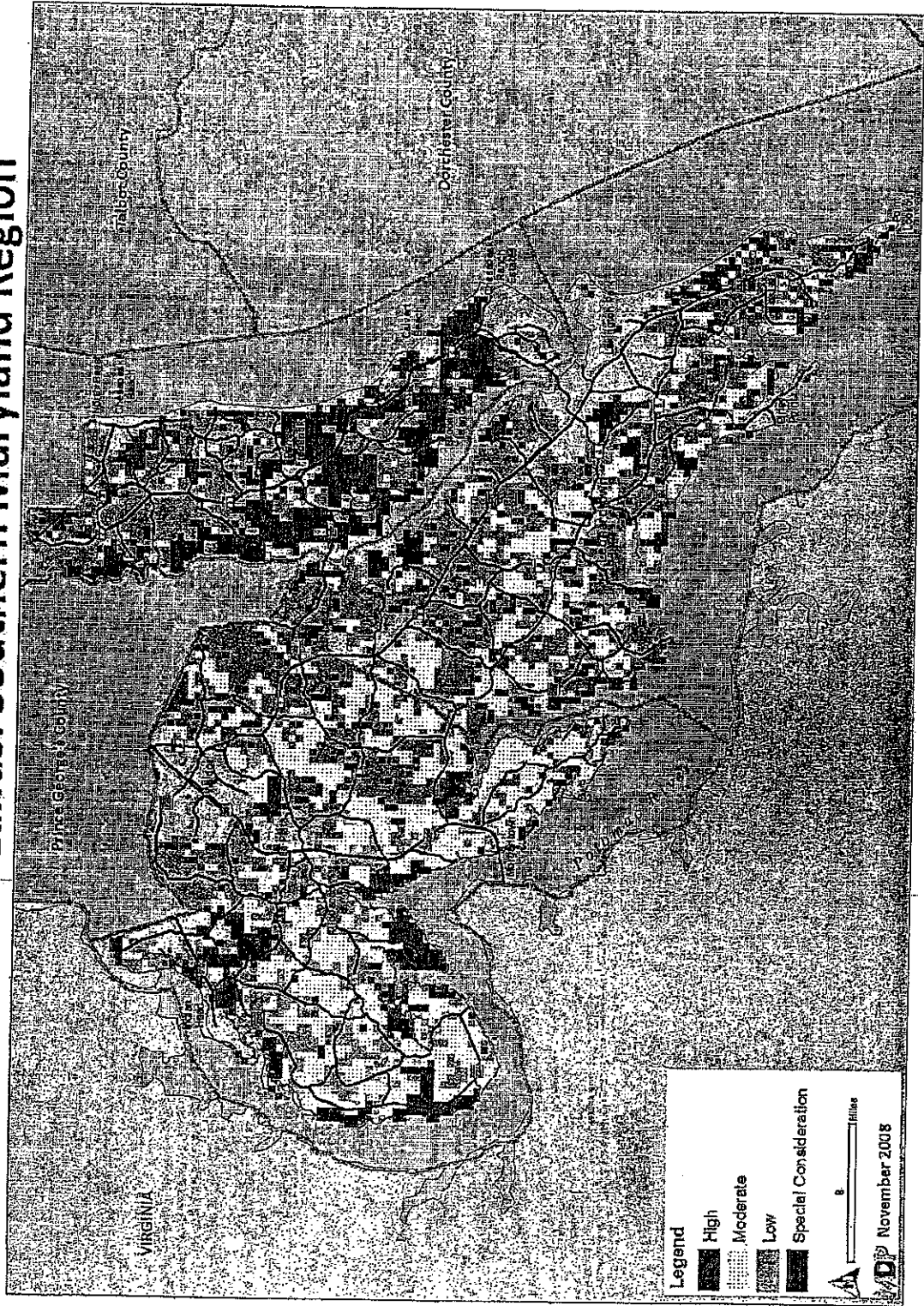
Moderately Fragmented – Between 3 and 5 Residential Lots per 100 Acres

Largely Un-fragmented – 2 or Fewer Lots per 100 Acres.

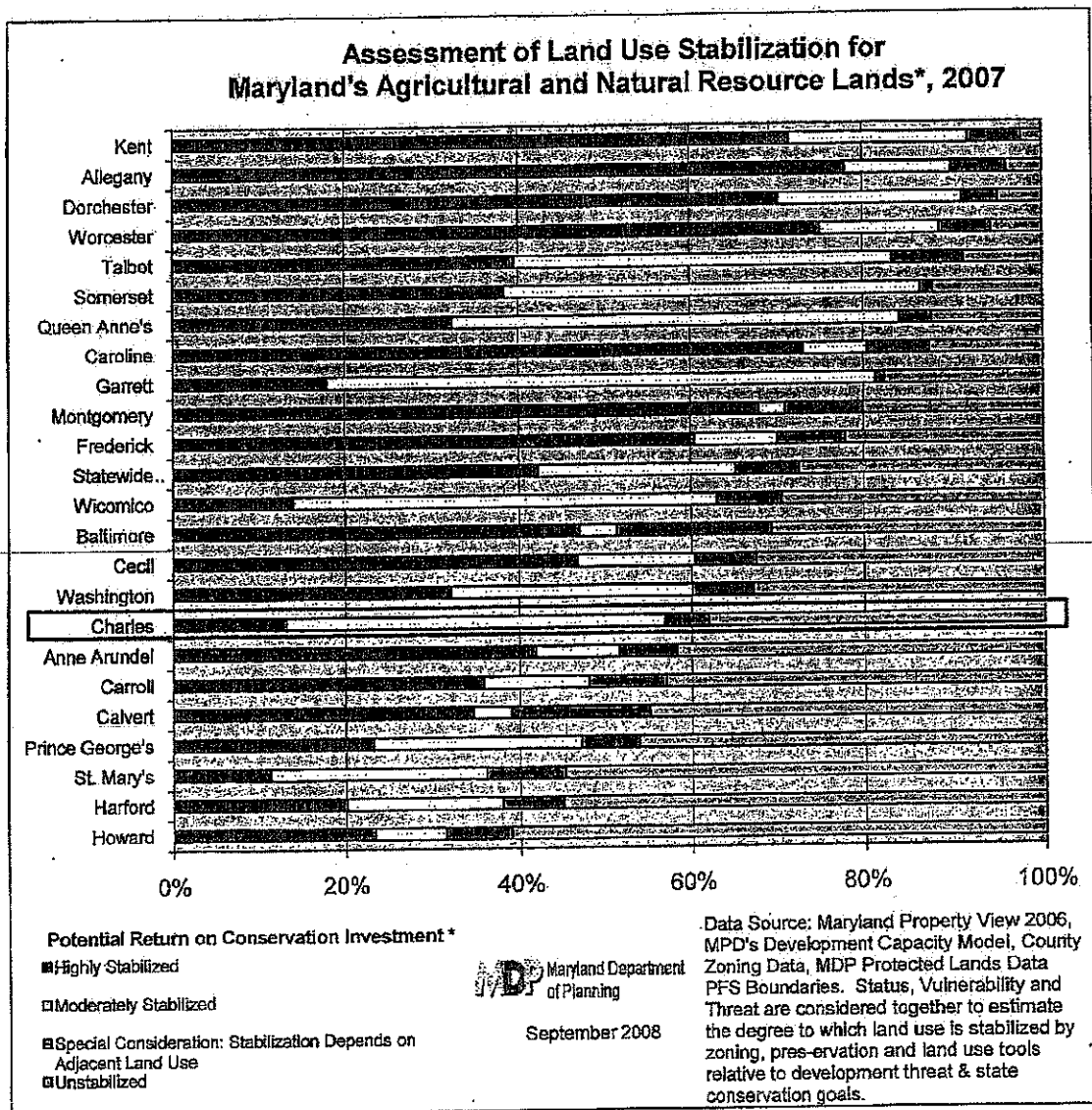


The graph shows that just over 50% of Charles County's resource land is largely unfragmented and over 30% is highly fragmented. This is worse than the statewide average and 13 other counties. The map below is based on the same data.

Status of Resource Lands: Southern Maryland Region

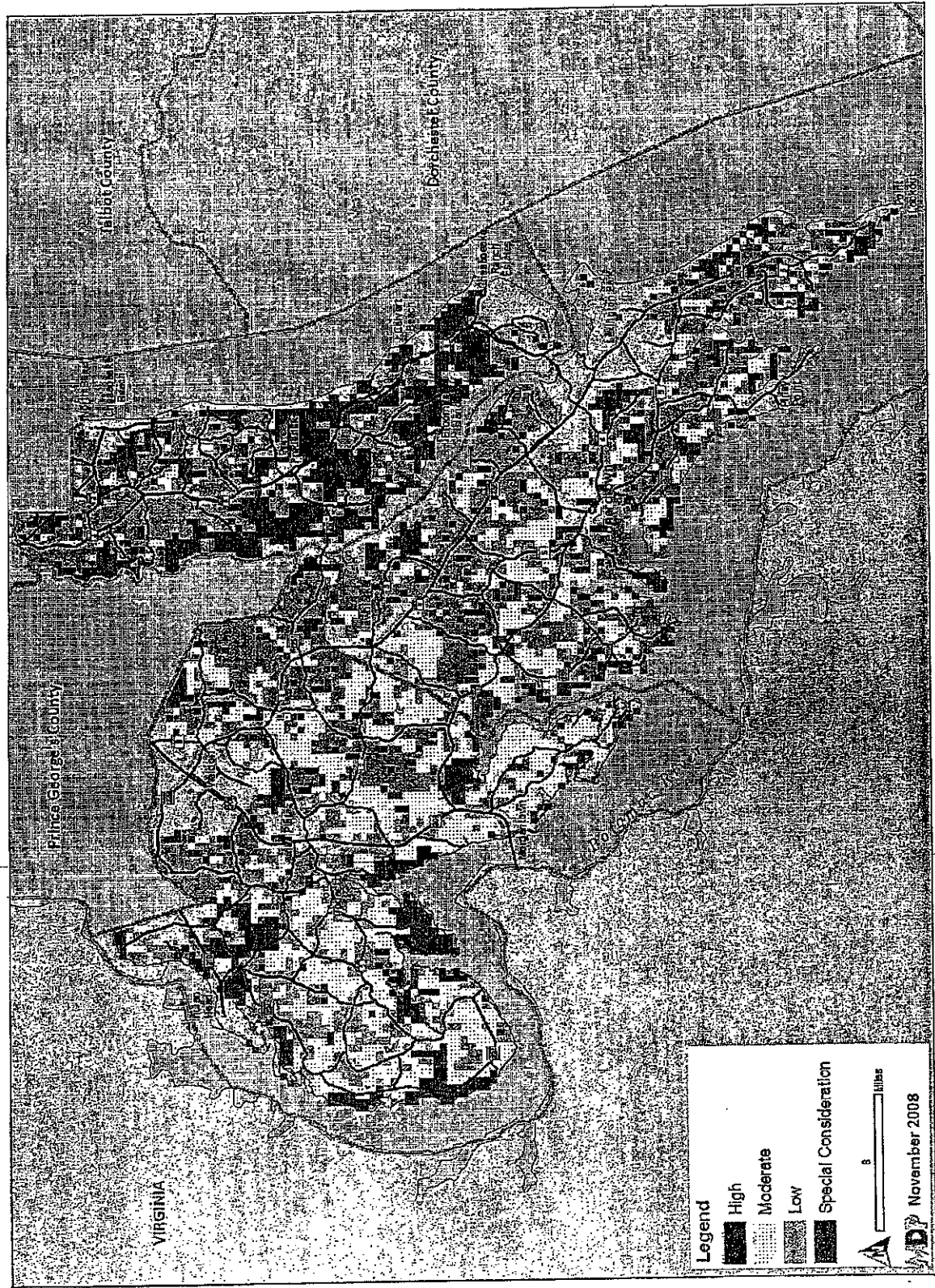


The graph and map below depict Land Use Stabilization. The stability of rural resource lands is used to assess the likelihood that the integrity of the land resource can be sustained into the future, assuming aggressive land preservation efforts by the State and local governments. The graph and map use the same 100-acre grid system and show current status with two other measures added: Vulnerability (total possible development based on zoning, minus environmental constraints and land already preserved); and Threat (a more likely level of development based on how much development that has taken place over the last decade). Stability address a fundamental question: to what degree has land in different areas been stabilized, commensurate with development pressure, to provide time for easement acquisition to achieve conservation goals before the land resource is excessively compromised by development?



"Special" lands (the blue grid cells), as classified here, comprise two types: land that is already subdivided and developed (highly fragmented Status), but has limited or moderate Vulnerability and low Threat; and land that is currently free from intrusive development but is both fairly vulnerable to further nearby development and subject to high levels of Threat.

Land Use Stabilization of Resource Lands: Southern Maryland Region



OK

2. Stabilize the land base (.05.E(1)(a)(ii)). See supporting information under F.2 below; and

Part

3. Provide time for agricultural land preservation easement acquisition to achieve State and local preservation goals before the agricultural land resource is excessively compromised by development (.05.E(1)(a)(iii)).

NO

- B. The ability of combined State, local, and other agricultural land preservation easement acquisition programs to permanently preserve lands in the county's Priority Preservation Area and at a rate sufficient to achieve State and local preservation goals (.05.E(1)(b)). See supporting information under F.3 below;

The application does not say how much acreage is contained in the PPAs, how much has been preserved, and what the preservation goal is. Overall, the County has about 27,000 acres under easement—better than 11 other Counties. When publicly owned lands are added, Charles County has preserved over 46,500 acres—better than just 8 Counties. The converted-to-developed ratio is just .92, below the State average of 1.08—better than just 7 Counties, even though Charles is a rural county.

Program	Acreage Preserved F.Ys 2007-2008
MALPF	1,576
TDR	1,788
Rural Legacy	497
MET	61
The Nature Conservancy	276
TOTAL	4,198

While these programs were preserving 4,198 acres over two years, 1,617 were subject to agricultural land transfer tax. This is an admirable preservation-to-development ratio of 2.6. However, the three years previous saw extremely high levels of acreage converted: 1,744 (2004), 1,904 (2005), and 1,656 (2006).

Eleven farms were saved by MALPF, while the TDR acreage resulted from the transfer of 406 development rights. The TDR program peaked in 2007, with TDRs selling for \$15,313. The price fell to \$7,125 in 2008.

In addition, fifty districts comprising 3,965 acres were created in Charles County for the 2007-2008 period.

The County has no local PDR. It relies heavily on agricultural land transfer tax revenue for use in the MALPF matching program, and the amount of such revenue has fallen drastically. However, the County budget includes \$300,000 for land preservation in FY 2009. The tobacco buy-out program also provided \$3 million in land preservation funds to Charles County, which used the funds for MALPF and Rural Legacy acquisition.

The County cites their easement acquisition effort as a strength—enrolling 3,965 acres as districts in two years, having a functional TDR program, sponsoring a Rural Legacy area that has received almost \$11 million so far, strong landowner interest in selling easements—and also as a weakness—lack of dedicated local source of funds. It also cites as a weakness the “need for increased program funding, especially a consistent dedicated local source of funds, although Capital Improvement Budget allocations have been steady in the past few years” (page 17).

- _____ C. The degree to which county land use and other ordinances and regulations restrict or otherwise interfere with the conduct of normal agricultural activities in the priority preservation area (.05.E(1)(c)). See supporting information under F.4 below;
- _____ D. The ability of county zoning, subdivision, and development regulations and policies to minimize the degree to which development in the priority preservation area interferes with normal agricultural activities (.05.E(1)(d)). See supporting information under F.5 below; and
- _____ E. The ability of county and other farming assistance programs to support profitable agriculture and forestry activities in the priority preservation area (.05.E (1)(e)).
- _____ F. The evaluation shall be supported by statistics and other factual information necessary to evaluate the county's agricultural land preservation program, such as:

NO

1. A description of the amount of subdivision and development allowed on land within zoning districts comprising the priority preservation area, including base density and additional lots allowed for clustering, density transfers between parcels, and any other provisions affecting lot yields (.05.E(2)(a));

[The base zoning requires three-acre lots, with clustering allowed at 1:3 (no bonus density). The TDR program allows transfers at the rate of 1:3 to receiving areas in development zones. The bonus densities in receiving zones for using TDRs are as follow:

Zone	Type of Development	Units per Acre Base Density	Density With Maximum TDR
Low Density Residential	Cluster	1.00	3.00
	TOD Zone	1.75	3.50
Medium Density Residential	Cluster	3.00	4.00
	Application of a Planned Development—PRD Zone	3.00	6.00
	Application of a Planned Development—MX & PMH	3.00	10.00
	TOD Zone	4.00	8.00
High Density Residential	Cluster	5.00	6.00
	Application of a Planned Development—PRD Zone	5.00	12.00
	Application of a Planned Development—MX	5.00	19.00
	PMH Zone	5.00	10.00
	TOD Zone	15.00	27.50
Core Employment/Residential	Conventional	2.00	15.00
Core Retail/Residential	Conventional	2.00	15.00
Core Mixed Residential	Conventional	2.00	10.00

In the last three Core options, "the applicant must purchase one Transferable Development Right for each of the third, fifth, seventh and ninth lot/dwelling units per acres." The sending property is placed under easement after the first right is sold. However, the sender can later buy back at one time all the rights he sold and unencumber his property. This has happened only once in the history of the program.]

Part

2. The numbers and locations of residential parcels and acres subdivided and developed within the priority preservation area during the most recent five-year period (.05.E(2)(b));

Data were provided for the three years 2006-2008. In the Rural Area, 922 lots were approved (42%), compared to 1,280 in the Development District (58%). These figures translated to 3,879 acres developed in the Rural Area (4.2 acres per lot) and 750 acres in the Development District (.59 acres per lot). [The LPPRP reports that between 1997 and 2004, 70% of new lots were directed to the Development District, but the lots in rural areas consumed almost 22,500 acres, or about 73% of all acres in lots.]

"It is important to note that even though the number of acres subject to subdivision activity in the rural area is high, substantial portions of this land [are] preserved as dedicated open space and forest conservation, and additional portions remain in private open space, agricultural use lots or woodland use" (page 15). For FY 2006, 2,675 acres were subject to subdivision and 1,470 of the remained in open space (55%).

OK

3. The total acreage and locations of farms and parcels permanently preserved and recorded as permanent easements in the land records of the county during the most recent five-year period (.05.E(2)(c));

See V.B and V.F.2, above.

4. The constraints and restrictions placed by county ordinances and regulations on normal agricultural activities by county ordinances and regulations, such as minimum setbacks from property boundaries (.05.E(2)(d)); and
5. The constraints and restrictions placed by county ordinances and regulations on non-agricultural development activities, in order to minimize conflicts with normal agricultural activities within the priority preservation area (.05.E(2)(e)).

Part VI: **Program development strategy (.05.F).** The County's application for certification describes the way in which the goals of the program will be accomplished in the county's priority preservation area, including the county's strategy to protect land from development through zoning, preserve the desired amount of land with permanent easements, and maintain a rural environment capable of supporting normal agricultural and forestry activities, a strategy that includes the following:

- OK A. A schedule of activities the county will undertake to overcome shortcomings in the ability of county tools identified in the evaluation (.05.F(3)); and

The application noted the following list of program improvements from the County's Land Preservation, Parks, and Recreation Plan:

- *Improve the agricultural land preservation tool kit.*
- *Increase Program funding and support at the County and State level.*
- *Develop supportive agricultural zoning to protect prime agricultural areas from encroachment.*
- *Improve the economics of the TDR program.*
- *Increase use of structured economic development tools to enhance agricultural transition.*
- *Increase landowner participation in programs.*

- B. A schedule of milestones according to which the county hopes to overcome the identified shortcomings, including but not limited to changes the county intends to make or pursue in:

- OK 1. The county comprehensive plan, zoning, land use management tools, and related regulations and procedures (.05.F(4)(a));

The PPA and PPA plan element themselves need to be finalized.

"Although the areas have not yet been presented publicly, Planning staff concur that the proposed areas both successfully satisfy the goals and objectives of the Agricultural Stewardship Act and are the most appropriate areas for targeting future funding for agricultural land preservation and the conservation of forestry resources."

"In addition to completing the selection of the PPA areas, the soils analysis of the proposed areas is effectively complete, with accompanying data that supports the designation of the three areas. MDP is currently working on the land use data analysis, which when complete will provide us with the information needed to establish program goals and prepare materials for presenting the proposal to the public" (page 20).

Remaining tasks, and tentative timeframes for completion, are listed below:

<i>January – February 2009</i>	<i>Complete data analysis</i>
<i>March – April 2009</i>	<i>Draft Sensitive Areas Element</i>
<i>April 2009</i>	<i>County Commissioner Briefing</i>
<i>May 2009</i>	<i>Planning Commission Hearing and 60-day review</i>
<i>August 2009</i>	<i>County Commissioner Hearing/Work session</i>
<i>October 2009</i>	<i>Adoption</i>

The County intends to continue with districts after MALPF eliminates them, using them as a requirement to sell TDRs or an easement to MALPF, and to qualify for property tax credits. The program should be present to the County Commissioners early in 2009.

In addition, "the County is planning to process a zoning text amendment to include and clarify such uses as value-added agricultural processing, direct farm marketing and agritourism, as well as expanded winery uses. Such a zoning text amendment will allow the County to accommodate these types of expanded uses as farm operations diversify. Staff anticipates processing this amendment in 2009 (page 14). The County will also "evaluate" "the issue of protective agricultural zoning" (page 18).

OK

2. County easement acquisition programs (.05.F(4)(b));

Charles County obtained a Coastal Communities Initiatives Grant and hired a consultant, Environmental Resources Management (ERM) to create a commercial TDR program. The results were to be presented to the County Commissioners in January 2009.

"In addition, the County is currently working with ERM to formulate zoning for the Waldorf Sub-Area which will require TDR's for higher density development. The draft zoning will allow twelve dwelling units per acre by right, and will require TDR's for additional units. Incentives will be provided for mixed use development that is most consistent with the Waldorf Sub-Area Plan, with greater TDR requirements for less desirable options, such as apartments and townhouses" (application section II, page 2). [Does a market exist for development above 12 units per acre?]

- ___ 3. County ordinances, regulations, or procedures supporting or restricting normal agricultural activities (.05F(4)(c));
- ___ 4. County ordinances, regulations, or procedures limiting non-agricultural development activities that might interfere with the conduct of normal agricultural activities (.05.F(4)(d));
- ___ 5. County strategies or mechanisms to fund easement acquisition (.05.F(4)(e)); and
- ___ 6. Farming assistance programs and activities (.05.F(4)(f)).

Part VII: Program data (.05.G). The County's application for certification contains the following:

- OK A. An inventory, in digital or tabular form, of the properties that have been permanently preserved by a recorded easement (.05.G(1));
- N/A B. If in digital form, the content and format of the inventory must be approved by the Maryland Department of Planning (.05.G(2));
- OK C. If in tabular form, the inventory includes, for each property, the following:
 - OK 1. The number of each the tax map on which the parcel comprising the easement occurs (.05.G(3)(a));
 - OK 2. Each grid cell number of each tax map for the each parcel comprising the easement (.05.G(3)(b));
 - OK 3. Each parcel number through which the property can be identified on the tax map (.05.G(3)(c));
 - OK 4. The total number of acres of the easement property (.05.G(3)(d));
 - OK 5. The date on which the permanent conservation easement became effective (.05.G(3)(e));
 - OK 6. The preservation program which holds the conservation easement (.05.G(3)(f));
 - OK 7. The means through which the easement was acquired, such as purchase, transfer of development rights between private parties, or other means specified by the county (.05.G(3)(g));
 - NO 8. The easement purchase price, if the easement was purchased through or with financial assistance from a government program (.05.G(3)(h))